

**THE COMMISSION OF INQUIRY APPOINTED TO INVESTIGATE AND INQUIRE  
INTO AND REPORT ON THE ISSUANCE OF TREASURY BONDS DURING THE  
PERIOD 01<sup>ST</sup> FEBRUARY 2015 TO 31<sup>ST</sup> MARCH 2016**

TO:

His Excellency, Maithripala Sirisena,  
President of the Democratic Socialist Republic of Sri Lanka,  
Presidential Secretariat,  
Colombo 01.

Your Excellency,

Your Excellency was pleased to issue a Presidential Warrant dated 27<sup>th</sup> January 2017, in pursuance of the provisions of Section 2 of the Commissions of Inquiry Act (Chapter 393) as amended, appointing us as Commissioners to investigate and inquire into and report on the following:

- (a) The management, administration and conduct of affairs of the Central Bank of Sri Lanka Bank of Sri Lanka [CBSL] in respect of the matters referred to in the Schedule to the aforesaid Presidential Warrant;
- (b) Whether there has been any malpractice or irregularity, or non-compliance with or disregard of the proper procedures applicable in relation to, such management, administration and conduct of affairs in relation to the matters referred to in the said Schedule, resulting in damage or detriment to the Government or any statutory body including the CBSL;
- (c) Whether any contractual obligations relating to the matters referred to in the said Schedule, have been entered into or carried out, fraudulently, recklessly, negligently or irresponsibly, resulting in damage or detriment to the Government or any statutory body including the CBSL;
- (d) Whether there has been non-compliance with, or disregard of, the proper procedure applicable to the calling of tenders or the entering into of agreements or contracts relating to the matters referred to in the said Schedule, on behalf of the Government;



- (e) Whether such non-compliance with, or disregard of proper procedures in respect of the matters referred to in the said Schedule, has resulted in the improper or irregular or discriminatory award of any such tender for the sale of Treasury Bonds referred to in the said Schedule;
- (f) Whether proper procedures and adequate safeguards have been adopted to ensure that the matters referred to in the said Schedule resulted in obtaining the optimum price or benefit for the Government;
- (g) The person or persons responsible for any act, omission or conduct, which has resulted in such damage or detriment to the Government or any statutory body including the CBSL, in respect of the matters referred to in the said Schedule;
- (h) Whether any inquiry or probe into any of the matters referred to in the said Schedule had been obstructed or prevented in any manner, resulting in damage or detriment to the Government or any statutory body including the CBSL, and if so, the person or persons responsible for such obstruction;
- (i) The procedures which should be adopted in the future to ensure that matters such as those referred to in the said Schedule are carried out with transparency and with proper accountability with a view to securing the optimum price or benefit for the Government;
- (j) Whether there has been any misuse or abuse of power, influence, Interference, fraud, malpractices, nepotism or any act or omission connected with corrupt activity in relation to the matters referred to the said Schedule.

The Schedule to the aforesaid Presidential Warrant dated 27<sup>th</sup> January 2017 issued to us, is set out below *verbatim*:

1. *The issuance of Treasury Bonds during the period of 1<sup>st</sup> February 2015 and 31<sup>st</sup> March 2016 (hereinafter referred to as "such treasury bonds");*

*(a) The decision-making processes that preceded the issuance of such treasury bonds including the decisions relating to -*

*(i) the sum of money to be raised by each such treasury bond issue;*

- (ii) *the rate of interest payable on such treasury bonds or the method of determination of the rate of interest payable;*
- (iii) *the dates on which interest on such treasury bonds shall be payable;*
- (iv) *the rate at which, and the periods at the end of which, appropriation out of the Consolidated Fund and assets of Sri Lanka shall be made as a contribution to the sinking fund established for the purpose of redeeming such treasury bonds and the date from which such contributions shall commence;*
- (v) *The date of redemption of such treasury bonds.*

(b) *The disposal of such treasury bonds by the Primary Dealers, Direct Participants or Dealer Direct Participants.*

Your Excellency has also required us to make recommendations with regard to the matters referred to in the aforesaid Schedule to the Presidential Warrant dated 27<sup>th</sup> January 2017 issued to us and which have been inquired or, investigated into under the terms of the said Presidential Warrant.

The Commission of Inquiry conducted a total of 117 days of Hearings. All Hearings were held in public.

A team of officers of the Hon. Attorney General's Department, with the concurrence of the Hon. Attorney General, assisted the Commission of Inquiry, under the direction and supervision of the Commission of Inquiry, by examining relevant documents and interviewing witnesses and presenting evidence, for the examination of the Commission of Inquiry.

Several persons were represented by Counsel, under and in terms of section 16 of the Commissions of Inquiry Act, on the basis that such persons are implicated or concerned in the matter under inquiry and, therefore, should be represented at the Inquiry or that such persons consider it desirable that they should be represented by Counsel at the Inquiry.

71 witnesses were examined. Their evidence is recorded on over 10500 pages of proceedings. A total of 594 documents and 19 audio recordings were produced. All this evidence, documents and audio recordings have been examined, in order to prepare this Report.

In view of the volume of evidence that was placed before us, the duration of the Presidential Warrant was extended on four occasions. The Presidential Warrant now terminates on 31<sup>st</sup> December 2017.

The Report prepared by us consists of 34 Chapters. Our determinations and reports on the specific issues set out in items (a) to (j) of the Mandate in respect of the matters referred to in the Schedule to the Mandate, are contained in Chapter 32. Our recommendations are set out in Chapter 33. A brief Executive Summary is contained in Chapter 34.

We are required to draw Your Excellency's attention to the fact that, the CBSL has advised that, several of the documents of the CBSL which are in **ANNEX II**, are confidential. We would, with respect, recommend that, the views of the CBSL are obtained with regard to what documents should not be made public.

We are now pleased to submit to Your Excellency, the following Report, which has been signed by us, both below and at the end of the Report, in terms of the requirements of Section 2 (6) of the Commissions of Inquiry Act No. 17 of 1948.

On this 30<sup>th</sup> day of December 2017,

-----  
Justice K.T. Chitrasiri  
Judge of the Supreme Court  
Chairman, Commission of Inquiry

-----  
Justice Prasanna Jayawardena, PC  
Judge of the Supreme Court  
Member of the Commission of Inquiry

-----  
Kandasamy Veluppillai esq  
Retired Deputy Auditor General  
Member of the Commission of Inquiry

## **ACKNOWLEDGEMENTS**

We wish to place on record our appreciation of the dedicated services given to this Commission of Inquiry by Mr. Sumathipala Udugamasuriya, Attorney-at-Law and retired Deputy Director of Customs, who has functioned as the Secretary of this Commission of Inquiry from its inception. Mr. Udugamasuriya has attended to his duties with efficiency and dedication and has, at all times, been cheerful. We are indebted to him for enabling us to function, without disruption, over the demanding and, at times, exhausting period of eleven months during which this Commission of Inquiry has functioned.

We thank Mr. Ivan Gunaratna, Administrative Officer of this Commission of Inquiry, Mr. S.M.Y. Kingsley Udaya, Judicial Interpreter Mudaliyar of this Commission of Inquiry, Ms. J.M. Suraweera, Ms. D. Nugawela, Ms. I.D.I. Sandamali and Ms. A.W.M.I.N. De Silva who functioned as the stenographers who diligently recorded and typed voluminous proceedings and Ms. H.G. Ranjani and Ms. K.K.D.L. Amarasinghe who functioned as Public Management Assistants. We thank Mr. M. Sumith, Mr. T. Dayaratne, Mr. H.K.D. Rasika Samath, Mr. E.G.S. Milan, Mr. M.S.C. Hettiarachchi and Mr. P.C.K. Liyanage who assisted the Commission of Inquiry by attending to the myriad tasks that were required each day. We also thank Ms. Sajini Fernando who functioned as a legal assistant to the Commissioners. Ms. Fernando diligently and intelligently carried out the task of preparing summaries of the evidence of each witness. We wish to place on record, our deep gratitude to Ms. Fernando for her invaluable assistance in the preparation of our Report.

Next, we wish to express our gratitude to Mr. Austin Fernando, Secretary to His Excellency to the President and his predecessor, Mr. P.B. Abeykoon and the officers and staff of the Presidential Secretariat for their ready and prompt assistance in enabling us to establish this Commission of Inquiry and function without interruption or delay. We must also place on record our thanks to Mr. W.U.N. Rodrigo of the staff of the Presidential Secretariat who worked efficiently during all sittings of this Commission of Inquiry to ensure that audio recordings of Proceedings were obtained.

Our thanks are due to the Hon. Attorney General who readily acceded to our request that he gives this Commission of Inquiry the assistance of a team of officers of the Hon. Attorney-General's Department, in terms of section 23 of the Commissions of Inquiry Act No.17 of 1948.

We wish to place on record our appreciation of the services given to this Commission of Inquiry by the members of the team of officers of the Hon. Attorney-General's Department, namely, Mr. Dappula De Livera, PC, Senior Additional Solicitor General, Mr. Yasantha Kodagoda, PC, Additional Solicitor General, Mr. Priyantha Nawana, PC, Additional Solicitor General, Mr. Milinda Gunatilleke, Deputy Solicitor General, Mr. Dilan Ratnayake, Deputy Solicitor General, Ms. Shaheeda Barrie, Senior State Counsel, Dr. Avanti Perera, Senior State Counsel, Ms. Nayomi Wickremasekera, Senior State Counsel, Mr. Dushyanthan Kaneshayogan, State Counsel and Mr. Jehan Gunasekera, Temporary Acting State Counsel. They worked for long hours with dedication to their task of assisting this Commission of Inquiry to find the facts relating to the events falling within our Mandate. These officers performed an invaluable role in investigating, inquiring and preparing evidence and material to be placed before this Commission of Inquiry for our examination. We could not have made this Report without their assistance.

We also wish to thank the officers of the Criminal Investigation Department, namely, Assistant Superintendent of Police, Mr. N.V. Lawrence, Inspector of Police, Mr. T.I. Raban, Inspector of Police, Mr. N.M.S. Herath, PS 49335 K.C. Ranasinghe and PS 12926 E.A. Mahindasoma, who worked hard to interview witnesses, record statements and carry out the investigations and inquiries which were required.

Finally, our thanks are due to all Counsel who appeared before this Commission of Inquiry representing the several persons who made applications to be represented by an Attorney-at-Law, as provided for by Section 16 of the Commissions of Inquiry Act. The assistance given to us by Counsel and their recognition, in accordance with the highest traditions of the Bar, that the magnitude of the task before this Commission of Inquiry necessitated a degree of cooperation rather than needless obstruction, made our task considerably easier.

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## CHAPTER 1

### **INTRODUCTION**

His Excellency, the President, in the exercise of the powers vested in him by the provisions of the Commissions of Inquiry Act No. 17 of 1948, issued a Presidential Warrant appointing us, as Commissioners, to investigate and inquire into and report with regard to Issues (a) to (j) on the matters set out in the Schedule to the said Presidential Warrant.

His Excellency, the President also required us to make recommendations with reference to the matters referred to in the said Schedule.

We have included a copy of this Presidential Warrant, as Appendix "A" to this Report.

The Commission of Inquiry conducted a total of 117 days of Hearings. All Hearings were held in public.

A team of officers of the Hon. Attorney General's Department, with the concurrence of the Hon. Attorney General, assisted the Commission of Inquiry, under the direction and supervision of the Commission of Inquiry, by examining relevant documents and interviewing witnesses and presenting evidence, for the examination of the Commission of Inquiry. Further, several officers of the Criminal Investigation Department, with the concurrence of the Inspector General of Police, assisted the officers of the Hon. Attorney General's Department and the Commission of Inquiry by carrying out the required investigations.

Several persons were represented by Counsel under and in terms of section 16 of the Commissions of Inquiry Act on the basis that such persons are implicated or concerned in the matter under inquiry and, therefore, should be represented at the Inquiry or that such person considers it desirable that he should be represented by Counsel.

71 witnesses were examined. Their evidence is recorded in over 10,500 pages of proceedings. A total of 594 documents and 19 audio recordings were produced.

Our Proceedings have been an effort by the Commission of Inquiry to ascertain, on the basis of reliable evidence, the facts relating to the matters which we have been asked to investigate and inquire into and report on and to draw such conclusions and inferences, as are permitted by Law and Equity, from such facts which have been established by reliable evidence. We have emphasized that we will not make findings on the basis of suspicion, surmise or speculation.



Further, we emphasized at the commencement of our Hearings and in the course of our Proceedings, that, the Commissioners are required, by Law, to and will act fairly and with strict impartiality.

As we have stated, this Commission of Inquiry is not a witch hunt nor is it a whitewash.

We also wish to place on record here that, in the course of our hearings and the writing of this Report, we have been guided by the duty placed on us by the Supreme Court in **SIRISENA COORAY vs. TISSA DIAS BANDARANAIKE** [1999 1SLR 1], where the Supreme Court set aside and quashed the Report of a Special Presidential Commission of Inquiry and emphasized that a Commission of Inquiry has the duty to act “*fairly*”.

His Lordship, Justice Dheeraratne, citing the case of **RE SBA PROPERTIES LIMITED** [1967 2 AER 615], said, with regard to the effects of a Report made by a Commission of Inquiry, “*They have to make a report which may have wide repercussions. They may, if they think fit, make findings of fact which are very damaging to those whom they name. They may accuse some; they may condemn others; they may ruin reputations or careers. Their report may lead to judicial proceedings. It may expose persons to criminal prosecutions or to civil actions. It may bring about the winding-up of the company, and be used itself as material for the winding-up.*”.

The Supreme Court also cited the case of **RUSSEL vs. DUKE OF NORFOLK** [1949 1 AER 109] and observed, “*It is sufficient if the recommendation or decision of the authority has the effect of potentially jeopardizing the rights of persons. The fact that the recommendations are not self-executory or the fact that a discretion of some other authority interposes between the recommendation and any actual consequences to the persons affected, does not necessarily preclude judicial review. It is the nature, functions and powers of the commission that would determine whether the commissioners have a duty to act fairly.*”.

Dheeraratne J, referring to instances where Judges are appointed as members of a Commission of Inquiry, emphasized the fact that, where a Judge has been appointed to serve on a Commission of Inquiry, “*the legislature has in all probability given its mind to the fact that a judge will bring to bear in functioning as a commissioner, his legal training and judicial experience, and that the combination of those attributes will make him not only to act, in the words of Burke, with “**cold neutrality of an impartial judge**”, but also **fairly** [emphasis added].*”.

Dheeraratne J. went on to state that, although there is no provision in the Commissions of Inquiry Act No. 17 of 1948 which requires His Excellency, President to appoint sitting Judges as Commissioners, “*it is interesting to reflect upon how great judges of this court, injected into commission proceedings a degree of fairness, particularly before labelling a person as a criminal. They were quite conscious, being public functionaries*

*on whom enormous powers were vested by law, of the fact that “it is excellent to have a giant’s strength, but it is tyrannous to use like a giant.”*”.

In **ATTORNEY GENERAL vs. CHANMUGAM**, [71 NLR 78] Sirimane J observed that, a Commission of Inquiry should not adopt a Procedure which may *“offend against one’s sense of justice and fair play.”*

We have endeavoured to remain acutely conscious of the aforesaid duties placed on us by the Supreme Court and to ensure that, we discharge those duties in the course of our functions during this Commission of Inquiry and in the writing of this Report. We hope we have succeeded in this effort.

When engaging in this exercise, we have been mindful that, the Management of the CBSL comprises of officers who are possessed of specialized knowledge and experience and who have the authority and discretion to make decisions within the scope of the permitted Procedures and the Law. We are conscious that, the decisions which these officers are called upon to make in the course of their duties, relate to complex and technical matters in the arena of Economics, Public Debt, Government Securities, Market Forces and other relevant fields. We are also conscious that, we do not possess that knowledge or skills and that we should refrain from venturing to make ‘technical’ judgments on or trying to ‘second guess’ decisions taken within the province of the Management of the CBSL, unless it is apparent that, a decision is manifestly perverse or is shown to have been made for improper reasons.

His Lordship, Justice Sripavan [as he then was] stated, in **SENASINGHE vs. CABRAAL** [S.C.F.R. 457/2012, SC Minute 18.09.2014], which is more popularly known as the ‘Greek Bond case’, *“We must not forget that in complex economic policy matters every decision is necessarily empiric and therefore its validity cannot be tested on any rigid formula or strict consideration. The Court while adjudicating the constitutional validity of the decision of the Governor or Members of the Monetary Board must grant a certain measure of freedom considering the complexity of the economic activities. The Court cannot strike down a decision merely because it feels another policy decision would have been fairer or wiser or more scientific or logical. The Court is not expected to express its opinion as to whether at a particular point of time or in a particular situation any such decision should have been adopted or not. It is best left to the discretion of the authority concerned. We have to focus on the applicable law and ascertain whether the impugned decision to invest in Greek Bonds was an arbitrary exercise of power serving a collateral purpose.”*

In this connection, we consider it apt to draw a parallel here with the well-established principle of Company Law that, decisions with regard to the management of a Company are best left to the Directors and Officers of the Company and that, therefore, a Court would not be inclined to intervene in the day to day management of a Company unless it is shown that, there has been misconduct or grave mismanagement by the

Directors of the Company which has caused loss to the Company or unfair prejudice to the members of the Company.

Thus, in **RE A COMPANY** [1987 BCC 80], the Court took the view that, it cannot intervene, in matters where Relief is sought, on the basis of a claim that the Directors of the Company have made “*unwise decisions*”. As Pennington states. [at p.891], there is a reluctance on the part of the Court to pronounce on the merits and policy decisions taken by the Board of Directors of a Company. However, as Pennington goes on to observe [at p.892], “*Nevertheless, under both the original and the present statutory provision the court’s reluctance to examine business decisions would disappear if it were shown that the directors or controlling shareholders concerned did not make the impugned decisions in good faith in the interests of the members of the company as a whole.*”.

At the same time, we are of the view that, the Governor of the CBSL and the other Members of the Monetary Board are required to perform their duties with due care, skill and diligence.

In this connection, we note that, the Governor and the other members of the Monetary Board have the duty, placed upon them by the Monetary Law Act, to administer, supervise and regulate the monetary, financial and payments systems of Sri Lanka and to secure economic and price stability and financial stability with a view to encouraging and promoting the development of the productive resources of Sri Lanka. It is vital for the safety and development of the country and the wellbeing of our people that, the Governor and other members of the Monetary Board carry out these onerous and critically important duties, with the highest standard of care, skill and dedication.

The Deputy Governors and senior officers of the CBSL are bound by their duties as employees of the CBSL and senior public officers to assist the Governor and the other members of the Monetary Board and, where necessary, to guide the Governor and the other members of the Monetary Board. A failure to do so, on the part of these officers, will, in our view, be tantamount to a failure to properly discharge of their duties and amount to negligence on their part.

Thus, in **BANDARA vs. PREMACHANDRA** [1994 1 SLR 301 at p.318], His Lordship, Justice Fernando held that, “*The State must, in the public interest, expect high standards of efficiency, service and fairness from public officers in their dealings with the administration and the public. In the exercise of constitutional and statutory powers and jurisdictions, the Judiciary must endeavour to ensure that this expectation is realized.*”.

Here too, if we draw a parallel with the principles of Company Law by taking the view that, the Governor and the Members of the Monetary Board are comparable to the Directors of a Company, Section 189 of the Companies No. 07 of 2007 stipulates that,

*“A person exercising powers or performing duties as a director of a company, (a) shall not act in a manner which is reckless or grossly negligent; and (b) shall exercise the degree of skill and care that may reasonably be expected of a person of his knowledge and experience.”*

We would expect that, in view of the critically important duties which a Governor and members of the Monetary Board have undertaken to perform, the highest standard of care, diligence and skill must be expected from them.

Continuing to draw on the principles of Company Law, we consider that, the Governor and the members of the Monetary Board are, in the same manner as Directors of a Company, bound to observe the duty of good faith, when carrying out their functions relating to the CBSL and that, the Governor and the members of the Monetary Board must act in a fiduciary capacity when carrying out those functions. In a sense, the Governor and the members of the Monetary Board can be correctly regarded as trustees, in relation to their duties to the CBSL.

In this connection, Section 187(1) of the Companies Act No. 7 of 2007 states that, *“A person exercising powers or performing duties as a director of a company shall act in good faith, and subject to subsection (2), in what that person believes to be in the interests of the company.”* As stated in Palmer’s Company Law, [24<sup>th</sup> ed. Volume I at p.922] *“Directors are not only agents but they are in some sense and to some extent trustees...”* of the Company. Romilly MR stated in **YORK AND NORTH MIDLAND RAILWAY vs. HUDSON** [1853 16 Beav.485] that, *“The directors are persons selected to manage the affairs of the company for the benefit of the shareholders. It is an office of trust which, if they undertake, it is their duty to perform fully and entirely.”* In **RE FOREST OF DEAN, ETC. CO.** [1878 10 Ch.D 450], Sir George Jessel observed, *“... directors are called trustees. They are no doubt trustees of assets which have come into their hands, or which are under their control...”*

Palmer explains [at p.924] that, *“For most purposes it is sufficient to say that directors occupy a fiduciary position and all the powers entrusted to them are only exercisable in this fiduciary capacity.”* Further, as Palmer states [at p.936], one of the fiduciary duties of a Director is to act *bona fide* in the best interests of the Company.

It is relevant to mention here that, one of the obligations placed on the Governor and the members of the Monetary Board as a result of their duty to act in a fiduciary capacity, is the duty to refrain from placing themselves in a position where there is a conflict of interest between their personal interests and their duties to the CBSL. As Palmer observes [at p. 943] *“Like other fiduciaries directors are required not to put themselves in a position where there is a conflict (actual or potential) between their personal interests and their duties to the company.”*

Next, we note that, the Governor and the appointed members of the Monetary Board, who are all appointed by the President, are “Public Officers” in the eyes of the Law. Similarly, the Deputy Governors and senior officers of the CBSL are also “Public Officers” in the eyes of the Law. As stated in Section 120 of the Monetary Law Act, *‘Every member of the Monetary Board and every officer or servant of the Central Bank shall be deemed to be a public servant within the meaning and for the purposes of Chapter IX of the Penal Code.’*

Further, the CBSL which falls under their purview and administration of the Governor and the Monetary Board, is a Public Authority which is of the highest importance to Sri Lanka and its People.

We consider that, in these circumstances, that the Governor and other members of the Monetary Board, Deputy Governors and other senior officers of the CBSL hold those offices subject to the ‘Public Trust Doctrine’. They are subject to Public Accountability.

In this connection, in **SILVA vs. RATWATTE** [1998 1 SLR 250], the Supreme Court held, *“It is now well settled that the powers vested in the State, public officers and public authorities are not absolute and unfettered but are in trust for the people to be used for the public benefit and not for improper purposes.”*

As His Lordship, Justice Fernando stated in **MUNDY vs. CENTRAL ENVIRONMENTAL AUTHORITY** [SC 58-60/2003 SC Minutes of 20th January 2004], *“This Court itself has long recognized and applied the “public trust” doctrine: that powers vested in public authorities are not absolute or unfettered but are held in trust for the public, to be exercised for the purposes for which they have been conferred, and that their exercise is subject to judicial review by reference to those purposes.”*

In **SUGATHAPALA MENDIS vs. KUMARATUNGA** [2008 2 SLR 339 at p.353], Her Ladyship, Justice Tilakawardane observed [at page 352], *“The “Public Trust Doctrine” is based on the concept that the powers held by organs of government are, in fact, powers that originate with the People, and are entrusted to the Legislature, the Executive and the Judiciary only as a means of exercising governance and with the sole objective that such powers will be exercised in good faith for the benefit of the People of Sri Lanka. Public power is not for personal gain or favour, but always to be used to optimize the benefit of the People. To do otherwise would be to betray the trust reposed by the People within whom, in terms of the Constitution, the Sovereignty reposes. Power exercised contrary to the Public Trust Doctrine would be an abuse of such power and in contravention of the Rule of Law.”*

Tilakawardane J also stated [at p. 374], *“It is to be noted for our purposes that all facets of the country - its land, economic opportunities or other assets - are to be handled and administered under the stringent limitations of the trusteeship posed*



*by the Public Trust Doctrine and must be used in a manner for economic growth and always for the benefit of the entirety of the citizenry of the country and we repeat, not for the benefit of granting gracious favours to a privileged few, their family and/or friends.”.*

Mr. Kalinga Indatissa, PC, who appears on behalf of Mr. Kasun Palisena, has submitted that, it was mandatory for the Commission of Inquiry to have made Rules as provided for by Section 25 of the Commissions of Inquiry Act.

We do not agree with that submission since we note that, only a discretionary power is given to a Commission of Inquiry to make Rules under Section 25. There is no mandatory requirement that, a Commission of Inquiry must make Rules. In any event, we note that, the discretionary power vested in a Commission of Inquiry by Section 25 is confined to the power to make Rules relating to *“the organisational structure mandates of subordinate structure and functions of officers of the Commissions”*.

Having considered the terms of Section 25, we decided that there was no need to make such Rules, at the outset of the Proceedings. We decided to consider making Rules to meet a particular requirement, if and when such a requirement arose.

The Procedure we adopted was, in the main, similar to Proceedings at a Trial and all Counsel who appeared before us were familiar with that Procedure. In any event, no formal application was made before us, by any Counsel, to the effect that Rules should be formulated. A need to make Rules did not arise during the Proceedings.

Mr. Sumanthiran, PC, who appeared on the last day of the hearings of the Commission of Inquiry - *ie:* on 20<sup>th</sup> November 2017 - on behalf of Mr. S. Padumanapan, has submitted that, the officers of the Hon. Attorney General’s Department who assisted the Commission of Inquiry under and in terms of Section 23 of the Commissions of Inquiry Act were not entitled to present evidence before the Commission of Inquiry or to appear as Counsel before the Commission of Inquiry.

We do not agree with that submission. As stated earlier, the officers of the Hon. Attorney General’s Department, with the concurrence of the Hon. Attorney General, assisted the Commission of Inquiry, under the direction and supervision of the Commission of Inquiry, by examining relevant documents, interviewing witnesses and presenting evidence, for the examination of the Commission of Inquiry. We consider that, this clearly falls within the ambit of Section 23 of the Commissions of Inquiry Act.

In conclusion, we would be insensible if we remained unaware that, the events and matters which fall within our Mandate and which we have been required to investigate and inquire into and report on and make recommendations with reference to, are matters which have been subject to much discussion and controversy in the public domain. We would also be insensible if we remained unaware that, the events and

matters which fall within our Mandate have been made out by various persons and sections of the media, to have political and other implications.

In this background, we clearly stated, at the commencement of our Hearings and subsequently, that, the Commissioners have no interest in political considerations or the concerns or wishes of any person, political party or other organization.

We have functioned as Commissioners for 11 months and this Commission of Inquiry has ventured into areas which may have caused a measure of discomfort or concern to a few persons.

We would like to place on record that, the Commissioners appreciate the fact that, throughout these 11 months, no person, of any station, has attempted to influence or communicate with us with regard to our functions relating to this Commission of Inquiry. The Commissioners appreciate the strict and total independence with which we were able to function.

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## CHAPTER 2

### **ESTABLISHMENT OF THIS COMMISSION OF INQUIRY**

The Presidential Warrant dated 27<sup>th</sup> January 2017 issued by His Excellency, the President and the Mandate published in the Gazette Extraordinary bearing No.2003/41 dated 27<sup>th</sup> January 2017 were handed over to the three Commissioners by Your Excellency, on 30<sup>th</sup> January 2017.

The Mandate given to us, has been set out earlier. The Mandate is self-explanatory of the scope and nature of the investigations and inquiry which this Commission of Inquiry was required to carry out, the matters on which we are required to make our Report and the scope of any recommendations which we consider necessary or appropriate to make.

Work on making the arrangements necessary for the functioning of the Commission of Inquiry commenced on the same day with the Commissioners inspecting the premises at which the Commission of Inquiry was to function. We thank His Lordship, the Chief Justice and the Ministry of Justice for permitting us to use premises which are under the purview of the Ministry of Justice.

On 01<sup>st</sup> February 2017, His Excellency, the President was pleased to appoint Mr. Sumathipala Udugamasuriya, Attorney-at-Law, as the Secretary to the Commission. Thereafter, the appointment or recruitment of the necessary staff and the preparation and the equipping of the premises, were done within a period of three weeks.

In the meantime, the Commission of Inquiry published a Notice enabling the public to make representations relating to the matters referred to in the aforesaid Gazette notification, before 28<sup>th</sup> February 2017. On 09<sup>th</sup> and 10<sup>th</sup> February 2017, this Notice was published in the several daily newspapers in the Sinhala, Tamil and English languages. We received several representations from members of the public. All these representations were examined. In instances where the Commissioners were of the view that the person who made a representation should be interviewed or summoned to give evidence, that was done.

Upon a request made by the Commission of Inquiry, the Hon. Attorney General immediately nominated a team of officers from the Attorney General's Department to assist the Commission of Inquiry and to lead evidence. After discussions with the officers from the Attorney General's Department, the Commissioners decided on the manner in which Proceedings are to take place and considered the witnesses who would have to be called to give evidence.

A request was made to the Inspector General of Police to assign the police officers required to carry out investigations. After some delay, a team of police officers



attached to the Criminal Investigation Department were assigned to assist the Commission of Inquiry.

It was decided that, Hearings should be held in public unless there was an unavoidable requirement that a Hearing or a part of the evidence during a hearing had to be held *in camera* due to the confidential nature of evidence lead during that hearing or part of a Hearing.

Having considered whether there was any need for us to exercise the discretionary power vested in a Commission of Inquiry to make Rules relating to "*the organizational structure mandates of subordinate structure and functions of officers of the Commissions*" as provided for by section 25 of the Commissions of Inquiry Act, we decided that there was no need to make such Rules, at the outset. We decided to consider making Rules to meet a particular requirement, if and when such a requirement arose.

The Commission commenced recording evidence on 21<sup>st</sup> February 2017. Witnesses gave evidence on oath or affirmation. All Proceedings were audio recorded and the audio recordings have been preserved. Subsequently, the Proceedings were typed and witnesses have been requested to read the Proceedings and verify the accuracy of the record and, thereafter, sign the record to signify having done so.

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## CHAPTER 3

### **REPRESENTATIONS MADE BY MEMBERS OF THE PUBLIC**

Consequent to the publishing of notices calling for representations by members of the public, the Commission of Inquiry received representations made by the following persons:

1. Mr. H.B.R. Wegantale
2. Mr. P.A.S. Pathiraja
3. Mr. Wasantha Samarasinghe
4. Mr. W.A.D.E. Weerasinghe
5. Mr. A.G. Ratnaweera
6. Mr. Edward Ahangama
7. Mr. R.S.M.M. Senanayake
8. Mr. E. Nimalasena
9. Mr. T. Rusiripala
10. Mr. D.D.W. Chandradeva
11. Mr. C.A.A. Gunaratne
12. Hon. Vasudeva Nanayakkara, M.P.
13. Mr. Ranjith Samaranayake
14. The following 26 Members of Parliament
  - a. Hon. Dinesh Gunawardena, MP
  - b. Hon. Bandula Gunawardena, MP
  - c. Hon. Piyal Nishantha De Silva, MP
  - d. Hon. C.B. Ratnayake, MP
  - e. Hon. Vasudeva Nanayakkara, MP
  - f. Hon. Mahindananda Aluthgamage, MP
  - g. Hon. Wimal Weerawansa, MP
  - h. Hon. Rohitha Abeygunawardena, MP
  - i. Hon. T. Ranjith De Zoysa, MP
  - j. Hon. Kanaka Herath, MP
  - k. Hon. Mohan P. De Silva
  - l. Hon. Kanchana Wijesekera, MP
  - m. Hon. Sisira Jayakodi, MP.
  - n. Hon. Ramesh Pathirana, MP
  - o. Hon. Jayantha Samaraweera, MP.
  - p. Hon. Thenuka Vidanagamage, MP.
  - q. Hon. Tharaka Balasuriya, MP.
  - r. Hon. Indika Anuruddha, MP.
  - s. Hon. Vijith Berugoda, MP.
  - t. Hon. Prasanna Ranaweera, MP.
  - u. Hon. Janaka Wakkumbura, MP

- v. Hon. Lohan Ratwatte, MP.
- w. Hon. Sriyani Wijewickrama, MP.
- x. Hon. Prasanna Ranatunga, MP.
- y. Hon. Niroshan Premaratne, MP.
- z. Hon. Vidura Wickramanayake, MP.

All these representations were examined by us. Where we considered that, the matters set out in a representation required investigation or inquiry, such investigations or inquiries were done. In the case of the representations made by Mr. Wasantha Samarasinghe, President, Intercompany Employees Union, we considered that, the matters set out in a representation required that Mr. Samarasinghe be summoned to testify before the Commission of Inquiry. That was done.

The aforesaid 26 Hon. Members of Parliament addressed a letter dated 07<sup>th</sup> March, 2017 to us requesting that they be given an opportunity to give evidence. It was obviously impractical and unnecessary to summon all 26 signatories to that letter. Instead, Hon. Bandula Gunawardena, MP and Hon. Weerakumara Dissanyake, MP gave evidence with regard to the matters set out in the aforesaid letter and other matters which they wished to testify about, provided we considered those matters were relevant to our Mandate. Copies of the representations received by the Commission of Inquiry are included in **ANNEX I** to this Report.

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## CHAPTER 4

### PROCEEDINGS BEFORE THIS COMMISSION OF INQUIRY.

#### Section 4.1 - Dates of Hearings

##### List of Witnesses with dates on which their Evidence recorded

1. Dr. I. Coomaraswamy	-	21.02, 22 .02/2017
2. Dr. R.H.S. Samaratunga	-	23.02,27.02,28.02/2017
3. Mrs. G.K.D Liyanage	-	27.02.2017
4. Dr. M.Z.M. Aazim	-	28.02,02.03,03.03/2017
5. Hon. Bandula Gunawardena, M.P.	-	09.03.2017
6. Mrs. C.M.D.N.K. Seneviratna	-	06.03.2017
7. Mr. T.H.B. Sarathchandra	-	07.03,08.03/2017
8. Mrs. U.L. Muthugala	-	09.03.2017
9. Mr. N.W.G.R.D. Nanayakkara	-	13.03,14.03,15.03/2017
10. Mr. H.A. Karunaratne	-	16.03,20.03,21.03,22.03/2017
11. Mr. B.D.W. Ananda Silva	-	23.03.2017
12. Mr. P. Samarasiri	-	27.03,28.03,29.03/2017
13. Mr. S.S. Ratnayaka	-	30.03,03.04/2017
14. Mr. K.V.K. Alwis	-	04.04,06.04,18.05,19.05, 05.06,22.06,23.06,27.06, 28.06,29.06/2017
15. Mr. P.W.D.N.R. Rodrigo	-	07.04.2017
16. Mr. D.E.W. Gunasekara	-	24.04.2017
17. Mrs. Kalyanee Gunatilleke	-	25.04.2017
18. Mr. C.P.A. Karunatilleke	-	25.04.2017
19. Dr. W.A. Wijewardena	-	26.04,27.04,28.04, 02.05/2017
20. Mr. Wasantha Samarasinghe	-	02.05,03.05/2017
21. Hon. Weerakumara Dissanayaka, MP	-	03.05.2017
22. Dr. Nandalal Weerasinghe	-	04.05,05.05,08.05,09.05, 15.05,16.05,17.05/2017
23. Hon. Sunil Handunnetti, MP.	-	08.05.2017
24. Mr. N.S.D. Ranasiri	-	18.05.2017
25. Hon. Harsha De Silva, MP	-	05.06.2017
26. Mrs. M. Ramanathan	-	06.06.2017
27. Mr. J.K.D. Dharmapala	-	06.06,07.06,09.06/2017
28. Mr. D.N.R. Siriwardena	-	12.06.2017
29. Mr. Gamini Wijesinghe	-	12.06,13.06,14.06,15.06, 16.06, 19.06, 20.06/2017

30. Mr. M.D. Schafter	-	20.06.2017
31. Mrs. Suhini Fernando	-	20.06.2017
32. Mr. S.P. Sedara	-	21.06, 17.10/2017
33. Mr. H.S. Wickramasuriya	-	30.06.2017
34. Ms. L.S. Fernando	-	30.06, 03.07/2017
35. Mr. B.M.F.I. Mendis	-	03.07,04.07/2017
36. Mr. H.N.K.B. Meegolla	-	04.07.2017
37. Mr. R.A.B. Dias	-	05.07,07.07,10.07,11.07, 12.07,18.07,19.07/2017
38. Mr. B.H.I. Saman Kumara	-	12.07,11.10/2017
39. Mr. S.R. Attygalle	-	17.07,18.07/2017
40. Mr. W.G. Prabath	-	20.07.2017
41. Ms. M.A. Vinodini	-	24.07.2017
42. Mr. B.J.R. Sinnaiah	-	28.07.2017
43. Mr. R.A.A. Jayalath	-	31.07,01.08,03.08,04.08/2017
44. Hon. Ravi Karunanayake	-	02.08.2017
45. Mrs. D.L. Rohini	-	04.08.2017
46. Mr. Kasun Palisena	-	08.08,09.08,10.08,11.08, 14.08,15.08,16.08,17.08, 25.08,28.08,29.08,07.09, 08.09,11.09,12.09,13.09.14.0 14.09, 15.09, 18.09, 19.09/2017.
47. Mr. Y.N.R. Dharmarthne	-	29.08,30.08,31.08/2017
48. Mr. D.S.M. Devathanthiri	-	31.08,04.09/2017
49. Mr. N.T. Salgado	-	04.09,06.09,07.09,12.10, 13.10/2017
50. Mr. Arjuna Mahendran	-	19.09,20.09, 22.09,02.10, 03.10,06.10,09.10,10.10, 12.10/2017
51. Mr. N. Wasantha Kumar	-	04.10.2017
52. Mr. Hemasiri Fernando	-	-do-
53. Mr. Aswin De Silva	-	-do-
54. Mr. P.A. Lionel	-	-do-
55. Mr. Ronald C. Perera	-	-do-
56. Mr. S.V. Wickramarachchi	-	-do-
57. Mr. D.M. Gunasekara	-	-do-
58. Mr. S.M.S.C. Jayasuriya	-	-do-
59. Hon. Malik Samarawickrema, MP	-	11.10.2-17
60. Hon. Kabeer Hashim, MP	-	-do-
61. Mr. Kaushitha Ratnaweera	-	13.10.2017
62. Mr. Nihal Fonseka	-	16.10.2017
63. Mr. Steve Samuel	-	17.10.2017
64. Mr. T.I. Raaban	-	02.11.2017

65. Mr. N.M.S. Herath	-	-do-
66. Mr. K.A.S. Ranasinghe	-	-do-
67. Mr. E.A. Mahindasoma Jayatilake	-	-do-
68. Mr. B.M.A.S.K. Senaratne	-	-do-
69. Mr. S.D.N. Perera	-	-do-
70. Mr. J.P.Y.Y. Jayasinghe	-	16.11.2017
71. Mr. Hon. Ranil Wickremesinghe, MP	-	20.11.2017

#### **Section 4.2 - Officers of the Hon. Attorney-General's Department assisting the Commission of Inquiry.**

Mr. Dappula De Livera, PC, Senior Additional Solicitor General.  
 Mr. Yasantha Kodagoda, PC, Additional Solicitor General.  
 Mr. Priyantha Nawana, PC, Additional Solicitor General.  
 Mr. Milinda Gunatilleke, Deputy Solicitor General.  
 Mr. Dilan Ratnayake, Deputy Solicitor General.  
 Ms. Shaheeda Barrie, Senior State Counsel.  
 Dr. Avanti Perera, Senior State Counsel.  
 Ms. Nayomi Wickremasekera, Senior State Counsel.  
 Mr. Dushyanthan Kaneshayogan, State Counsel.  
 Mr. Jehan Gunasekera, Temporary Acting State Counsel.

#### **Section 4.3 - Persons who were represented by Counsel.**

- (1) Perpetual Treasuries Ltd represented by Mr. Nihal Fernando, PC with Mr. Niranjana Arulpragasam, Attorney-at-Law and Ms. Romali Tudawe, Attorney-at-Law.
- (2) Mr. P. Samarasiri represented by Mr. Harsha Fernando, Attorney-at-Law with Mr. Chamith Senanayake, Attorney-at-Law, Mr. Shanil Perera, Attorney-at-Law and Ms. Natasha Noordeen, Attorney-at-Law.
- (3) Mr. Arjuna Mahendran represented by Mr. Romesh de Silva, PC with Mr. Chanaka de Silva, Attorney-at-Law, Mr. Sugath Caldera, Attorney-at-Law, Mr. Aruna Samarajeewa, Attorney-at-Law, Mr. Manjuka Fernandopulle, Attorney-at-Law, Mr. Harith de Mel, Attorney-at-Law and Mr. Suminda Cooray, Attorney-at-Law instructed by M/S Samararatne Associates, Attorneys-at-Law.

- (4) Mr. Sachith Devathanthri represented by Mr. Vishwa De Livera Thennakoon, Attorney-at-Law.
- (5) Mr. Steve Samuel represented by Mr. Vishwa De Livera Thennakoon, Attorney-at-Law.
- (6) Mrs. Suhini Fernando represented by Mr. Akiel Deen Attorney-at- Law, and Mr. A.K.D.D. Arandara, Attorney-at-Law.
- (7) Hon. Ravi Karunanayake, MP represented by Mr. Rienzie Arseculeratne, PC, Mr. Riad Ameen, Attorney-at-Law, Ms. Chamendri Arseculertne, Attorney-at-Law, Mr. Shasheen Arseculeratne, Attorney-at-Law, Mr. Thejitha Kularathne, Attorney- at-Law.
- (8) Mr. B.J.R Sinnaiah represented by Mr. Nissanka Nanayakkara, Attorney-at-Law.
- (9) Ms. M.A. Vinodini represented by Mr. Suren De Silva, Attorney-at- Law and Mr. Hafeel Fariz, Attorney-at-Law.
- (10) Hon. Bandula Gunawardena, MP represented by Mr. Namal Rajapaksha, MP, Attorney-at-Law.
- (11) Mr. Indika Saman Kumara represented by Mr. Harshana Nanayakkara, Attorney-at-Law, Mrs. Malika Allepitagedara, Attorney-at-Law.
- (12) Mr. Kasun Palisena and Perpetual Treasuries Limited represented by Mr. Kalinga Indatissa, PC, Ms. Kinkini Nelson Willathgamuwa, Attorney-at-Law, Ms. Theruni Fernando, Attorney-at-Law, Ms. Samantha Premachandra, Attorney-at-Law, Mr. Shehan De Silva, Attorney-at-Law, Mr. Chaminda Athukorale, Attorney-at-Law.
- (13) Mr. Arjun Aloysius represented by Mr. Gamini Marapana, PC, Mr. Anuja Premaratna, PC, Miss. Nawshalya Rajapaksha, Attorney-at- Law.
- (14) Hon. Ranil Wickramasinghe, Prime Minister, represented by Mr. Faisz Musthapha, PC, Mr. Suren Fernando, Attorney-at-Law, Ms. Gowrie Thavarasa Attorney-at-Law.

- (15) Mr. S. Padumanapan represented by Mr. MA. Sumanthiran, PC, Mr. Niran Anketell, Attorney-at-Law and Ms. Juanita Arulanandam, instructed by Mr. Dinesh Vidanapathirana, Attorney-at-Law,

#### **Section 4.4 - Witnesses**

- (1) Dr. Indrajith Coomaraswamy, Governor of the CBSL.
- (2) Dr. R.H.S. Samaratinga, Secretary to the Treasury and Secretary to the Ministry of Finance.
- (3) Ms. G.K.D Liyanage, the Government Printer (Acting).
- (4) Dr. M.Z.M. Aazim, Additional Director of the Statistics Department of the CBSL.
- (5) Hon. Bandula Gunawardena, MP.
- (6) Ms. C.M.D.N.K. Seneviratne, Director of the Information Technology Department of the CBSL.
- (7) Mr. T.H.B. Sarathchandra, Superintendent of Public Debt.
- (8) Ms. U. L. Mutugala, Additional Director of the Bank Supervision Department of the CBSL.
- (9) Mr. N.W.G.R.D. Nanayakkara, Additional Director (Bank Supervision) of the CBSL.
- (10) Mr. H.A. Karunaratne, Assistant Governor and Secretary to the Monetary Board.
- (11) Mr. B.D.W.A. Silva, retired Deputy Governor of the CBSL.
- (12) Mr. P. Samarasinghe, Deputy Governor of the CBSL.
- (13) Mr. S. S. Ratnayake, Assistant Governor of the CBSL.
- (14) Mr. K.V.K. Alwis, Additional Director, IT Department of the CBSL.
- (15) Mr. P.W.D.N.R. Rodrigo, Director of the Domestic Operations Department of the CBSL.
- (16) Mr. D.E.W Gunasekera, former Member of Parliament.
- (17) Ms. Kalyanee Gunatilleke, Director of Internal Audit of the CBSL.
- (18) Mr. C.P.A. Karunatile, retired Assistant Governor of the CBSL.
- (19) Dr. W.A. Wijewardena, retired Deputy Governor of the CBSL.
- (20) Mr.H.M. Wasantha Samarasinghe, President, Intercompany Employees Union.
- (21) Hon. D.M.M. Weerakumara Dissanayake, MP.
- (22) Dr. N. Weerasinghe, Deputy Governor of the CBSL.



- (23) Hon. Sunil Handunetti, MP.
- (24) Mr. M.S.D Ranasiri, retired Director General of the Treasury Operations Department.
- (25) Hon. Dr. Harsha De Silva, MP.
- (26) Ms. Mano Ramanathan, Member of the Monetary Board.
- (27) Mr. J.K.D. Dharmapala, Manager - Risk Department, Bank of Ceylon.
- (28) Mr. D.N.R. Siriwardena, Registrar of Companies.
- (29) Mr. Gamini Wijesinghe, Auditor General.
- (30) Mr. M.D. Schaffter, Managing Director, First Capital Treasuries.
- (31) Mrs. Suhini Fernando, Chief Dealer, Capital Alliance.
- (32) Mr. S.P. Sedara, Assistant Director, Department of Supervision of Non-Banking Financial Institutions of the CBSL.
- (33) Mr. H.S. Wickramasuriya, Senior Additional Director of the CBSL.
- (34) Ms. L.S. Fernando, Public Debt Department of the CBSL.
- (35) Mr. B.M.F.I. Mendis, Banker, Union Bank PLC.
- (36) Mr. H.N.K.B. Meegolla, Chief Dealer, Nat Wealth Securities Ltd.
- (37) Mr. R.A.B. Dias, Deputy General Manager, Pan Asia Banking Corporation PLC.
- (38) Mr. B.H.I. Saman Kumara, Senior Asst. Director of the CBSL.
- (39) Mr. S.R. Attygalle, Deputy Secretary of the Treasury.
- (40) Mr. W.G. Prabath, Deputy Director of the CBSL.
- (41) Ms. M.A. Vinodhini.
- (42) Mr. B.J.R. Sinnaiah.
- (43) Mr. R.A.A. Jayalath, EPF Department of the CBSL.
- (44) Hon. R.V. Karunanayake, MP.
- (45) Mrs. D.L. Rohini, EPF Department of the CBSL.
- (46) Mr. Kasun Palisena, Chief Executive Officer of Perpetual Treasuries Ltd.
- (47) Mr. Y.N.R. Dharmaratne, Engineer, Metropolitan Agencies Ltd.
- (48) Mr. D.S.M. Devathanthiri, Information Technology Executive of Perpetual Treasuries Ltd.
- (49) Mr. N.T. Salgado, Chief Dealer of Perpetual Treasuries Ltd.
- (50) Mr. Arjuna Mahendran, Former Governor of CBSL.
- (51) Mr. N. Wasantha Kumar, Chief Executive Officer, People's Bank.
- (52) Mr. Hemasiri Fernadno, Chairman, People's Bank.

- (53) Mr. Aswin de Silva, Chairman, National Savings Bank.
- (54) Mr. P.A. Lionel, Consultant, Treasury, National Savings Bank.
- (55) Mr. Ronald C. Perera, Chairman, Bank of Ceylon.
- (56) Mr. V.S. Wickramarachchi, Assistant General Manager, Bank of Ceylon.
- (57) Mr. D.M. Gunasekera, General Manager, Bank of Ceylon.
- (58) Mr. S.M.S.C. Jayasuriya, Retired Deputy General Manager, Bank of Ceylon.
- (59) Hon. Malik Samarawickrama, Minister of Development Strategies and International Trade.
- (60) Hon. Kabeer Hashim, Minister of Public Enterprise Development.
- (61) Mr. Kaushitha Rathnaweera, Senior Dealer of Perpetual Treasuries Ltd.
- (62) Mr. Nihal Fonseka, Member of the Monetary Board,
- (63) Mr. Steve Samuel, Personal Assistant to Mr. Arjun Aloysius.
- (64) Mr. T.I. Raban, IP, Criminal Investigation Department.
- (65) Mr. N.H.M. Herath, IP, Criminal Investigation Department.
- (66) Mr. K.A.S. Ranasinghe, PS Criminal Investigation Department.
- (67) Mr. E.A.M. Jayatileke, PS, Criminal Investigation Department.
- (68) Mr. B.M.A.S.K. Senaratne, CI, Criminal Investigation Department.
- (69) Mr. S.D.N. Perera, General Manager/Chief Executive Officer, National Savings Bank.
- (70) Mr. J.P.Y.Y. Jayasinghe, SI, Criminal Investigation Department.
- (71) Hon. Mr. Ranil Wickremesinghe, Prime Minister.

#### **Section 4.5 - Documents and Audio Recordings**

- C1 - Letter of the Superintendent of Public Debt Department of CBSL dated 17.06.2014 from Mr. M.S.D. Ratnasiri (D.G) Department of Treasury Operations.
- C2 - Letter to Superintendent of Public Debt Department of CBSL dated 13.07.2015 from Mr. C.J.K. Perera (A.D.G) Dept. of Treasury Operations.
- C3 - Revenue Proposals- 2015.
- C4 - 100-day Revolution Statement.
- C5 - Gross Borrowings Requirement- 2016.
- C6A - Appropriation Act No.41 of 2014.
- C6B - Appropriation (Amendment) Act No. 1 of 2015.

- C6C - Appropriation (Amendment) Act No. 15 of 2015.
- C6D - Appropriation Act No. 16 of 2015 –should be C6D.
- C7 - (Not Marked)
- C8 - Government Debt Repayments and Borrowing Programme -2015.
- C9 - Government Debt Repayments and Borrowing Programme -2016.
- C10A - Cash Flow Forecast for the month of January, 2015 and actual Cash Flow position up to 24.12.2014 (03 pages)– Letter dated 29.12.2014.
- C11A - Cash Flow and Borrowing Requirement for the month of February 2015 and actual Cash Flow position up to 22.01.2015 (03 pages) – Letter dated 23.01.2015.
- C12A - Cash Flow and Borrowing Requirement for the month of March 2015, Actual cash position up to 19.02.2015 (03 pages)- Letter dated 20.02.2015.
- C13A - Cash Flow April 2015 – Letter dated 20.03.2015 (03 pages).
- C13(1)A- Revised Cash Flow for the month of April 2015 (03 pages) - Letter dated 30.03.2015.
- C14A - Cash Flow Forecast for the month of May 2015 (02 pages) - Letter dated 23.04.2015.
- C15A - Cash Flow Forecast for the month of June 2015 (03 pages) – Letter dated 22.05.2015.
- C16A - Cash Flow Forecast for the month of July 2015 (03 pages) – Letter dated 23.06.2015.
- C17A - Cash Flow Forecast for the month of August 2015 (03 pages) – Letter dated 22.07.2015.
- C18A - Cash Flow Forecast for the month of September 2015 (03 pages) – Letter dated 14.08.2015.
- C19A - Cash Flow Forecast for the month of October 2015 (03 pages) – Letter dated 18.09.2015.
- C20A - Cash Flow Forecast for the month of November 2015 (03 pages) – Letter dated 23.10.2015.
- C21A - Cash Flow Forecast for the month of December 2015 (03 pages) – Letter dated 27.11.2015.
- C22A - Cash Flow Forecast for the month of January 2016 (03 pages) – Letter dated 30.12.2015.
- C23A - Cash Flow Forecast for the month of February 2016 (03 pages) – Letter dated 26.01.2016.
- C24A - Cash Flow Forecast for the month of March 2016 (03 pages) - Letter dated 24.02.2016.
- C24(1)A - Revised Cash Flow Forecast for the month of March 2016 (02 pages) Letter dated 09.03.2016.
- C25 - The Gazette (Extra Ordinary) No.1895/19 – 01.01.2015 (Pages 1A- 34 A) English copy.
- C25A - The Gazette Extraordinary No.1895/19 of 01.01.2015 (Sinhala Page 1A - 27A, Tamil 1 A- 32 A, English 1 A - 34 A).
- C25B - Letter dated 20.12.2016, to Government Press from CBSL Front Office regarding Gazette No. 1895/19 of 01.01.2015.
- C25B1 - The Gazette (Extra Ordinary) No.1895/19 - January 01, 2015 (Sinhala Copy pages 1-27).
- C25B2 - The Gazette (Extra Ordinary) No.1895/19 - January 01, 2015 (Tamil 1A- 34 A).

- C25B3 - The Gazette (Extra Ordinary) No.1895/19 - January 01, 2015 (English 1A-34 A).
- C25B4 - Letter from Central Bank of Sri Lanka dated 20.12.2016.
- C26 - Letter dated 24.12.2014 to Government Printer to reserve Gazette No. 1895/19 of 01.01.2015.
- C27 - Letter dated 17.11.2016 to Government Printer from CBSL requesting to print Gazette No. 1895/19 of 01.01.2015.
- C28 - Work Ticket of Government Printing Department pertaining to the Gazette No. 1895/19.
- C29 - Copy of the relevant page of Gazette Extraordinary Register.
- C30 - Letter from CBSL to Government Press. Second proof of Gazette No. 1895/19 of 01.01.2015.
- C31 - Copy of the Page No. 17 of the Gazette Extraordinary Register.
- C32 - Gazette Extraordinary No.1791/13 of 01.01.2013 (Sinhala, Tamil & English).
- C33 - Gazette Extraordinary No.1847/27 of 01.01.2013 (Sinhala, Tamil & English).
- C34 - Copy of the paper article in Sunday Observer dated 26.02.2017.
- C34A - Press Release by Ministry of Finance – dated 25.02.2017 (2 pages).
- C35 - Issue of Rs. 1 Billion Treasury Bond on 27.02.2015.
- C36 - Copy of the part Hansard 17.03.2015 - (04 pages).
- C37 - Minute Paper of the Monetary Board on 23.02.2015.
- C38 - Minute Paper of the Monetary Board on 06.03.2015.
- C39 - Documents relating to Treasury Bonds in 2015 - Volume 1.
- C39A - Documents relating to Treasury Bonds in 2015 - Volume 2.
- C39B - Documents relating to Treasury Bonds in 2016 - Principal File.
- C39C - Table dated 06.03.2017 - Details of Auction dates, Notice Tender Board, Press Release.
- C39C(1)- Details of Auction Dates, Notice Tender Board, Press Release.
- C39C(2)- Details of Auction Dates, Notice Tender Board, Press Release.
- C39(D) - Table dated 07.03.2017 - Details of Auction Dates, Notice Tender Board, Press Release.
- C39(D)3C- Projected Government Daily Cash Flow Statement for 01.04 2016 – (2 pages).
- C39(4) - Addendum.
- C40 - Operational Manual of PDD (Extracts).
- C41 - Attendance of Treasury Bond Tender Board meeting 29.03.2016.
- C42 - Domestic Debt Management Committee (DDMC) 30.03.2016.
- C43 - Staff of Public Debt Department as at 29.03.2016- Part of the same document - page 1.
- C44 - Staff of Public Debt Department as at 29.03.2016 – Part of the same document - page 2.
- C45 - Public Debt Department as at 29.03.2016 – (01 page).
- C46 - Placement of Government Securities 26.02.2015- (2 pages).
- C46A - Yield rates for the period 21.02.2015 to 02.03.2015 – (1 page).
- C47 - Operational Manual Public Debt Department.
- C48 - Code of Conduct for Primary Dealers.
- C49 - Gazette Extraordinary No.1607/19 of 24.06.2009 (Registered Stock and Securities ordinance chapter 20) Regulation 01 of 2009 (Regarding Primary Dealers).

- C50 - Gazette Notifications from 1997-2015.
- C51 - Issuance of T-Bonds (1997 - 2015).
- C52 - Bidding pattern of Primary Dealers at Auctions from 01.01.2014 up to April 2016- Direct Placement.
- C52A - Memo of Mr. S.P.D. Nanayakkara 20.09.2012.
- C53 - Treasury Bond Tender Board Meetings 01.01. 2014 -06.02.2015.
- C54 - Issuance of T-Bonds - January 2013 to February 2015- Ratio.
- C55 - Appointment of Perpetual Treasuries Ltd as a Primary Dealer.
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- C55C - Letter dated 20.02.2013 from Perpetual Treasuries Ltd to the CBSL.
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- C55F - Monetary Board Minute dated 09.05.2013.
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- C55H - Perpetual Group Structure - page 68.
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- C55J - Letter dated 01.10.2013 from Superintendent of PDD to Perpetual Treasuries Ltd.
- C55K - Letter dated 02.10.2013 from Superintendent of PDD to Perpetual Treasuries.
- C55L - CBSL- PDD Press release dated 09.10.2013 - Appointment of Perpetual Treasuries as a Primary Dealer.
- C56 - Extracted Treasury Bond Auction Summary – From 01.01.2012 - 31.12.2013.
- C57 - Monetary Board Minute - 07.10.2008.
- C58 - Newspaper article by Mr. Ajith Nivard Cabraal in The Island - 14<sup>th</sup> March 2017.
- C59A - Letter dated 06.12.2007 - Appointment of Mrs. M. Ramanathan to the Monetary Board
- C59B - Letter dated 31.07.2013 - Re- Appointment of Mrs. M. Ramanathan to the Monetary Board.
- C59C - Letter dated 23.01.2015 - Appointment of Mr. A. Mahendran as Governor CBSL.
- C59D - Letter dated 10.04.2015 - Appointment of Mr. R. A. Jayatissa to the Monetary Board.
- C59E - Letter dated 24.06.2015 - Appointment of Mr. Chryshantha Perera to the Monetary Board.
- C59F - Letter dated 04.07.2016 - Appointment of Dr. I. Coomaraswamy as Governor CBSL.
- C59G - Letter dated 25.05.2010 - Appointment of Mr. N. Umagiliya to the Monetary Board.
- C59H - Letter dated 27.06.2016 - Appointment of Mr. A.N. Fonseka to the Monetary Board.
- C60A - Monetary Board Papers and decisions Monetary Board Members (sub markings).
- C60A(i) - Monetary Board - Board Paper.
- C60A1(ii) - Monetary Board – Minute.
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- C60B - Monetary Board - Minutes and Board Papers.
- C60B1(i) - Monetary Board - Board Paper.
- C60B1(ii) - Mr. H.A. Karunaratne's Notes.
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- C60B1(iii) - Draft Minutes.
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- C60B1(vii) - 23.02.2015- Monetary Board Minute.
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- C60B2 - Terms of Reference (TOR) Market Operations Committee (MOC).
- C60B3 - Handwritten Minute 27.02.2015.
- C60B4 - CBSL - DOD Circular No. 35/01/005/0006/35 dated 27.02.2015 - page 90.
- C60B5 - List of recipients - Open Market Operations – Instructions.
- C60B6 - 03.03.2015-CBSL- Economic Research Department-Press release-page 91.
- C60B7(a) - MOC minutes - 27.02.2015.
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- C70F - Memo from Mr. Sarathchandra to Mr. Rodrigo - dated 05.04.2016 - ILF & Reverse Repo data.
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- C70H - Gazette No. 1969/57 dated 03.06.2016 - Local Treasury Bills Ordinance.
- C71 - Names of members of parliament - Parliamentary Edition No.109 (03 pages).
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- C73 - List of Heads of Departments as at 05.02.2015.
- C74 - Staff Class - Postings, Ref No.05/04/005/0002/001 dated 05.02.2015.
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- C258 - Daily Summary Report published by the PDD (based on information extracted from the LankaSecure system).
- C259 - Table - Comparison of PTL Outrights Report with Securities transferred through Lankasecure Systems.
- C260 - Summary of all outright T-Bond purchases by Perpetual Treasuries Ltd and sales by Perpetual Treasuries Ltd on Primary and Secondary Markets during 01.02.2015 to 30.09.2016.
- C261 - Voice Recordings of Perpetual Treasuries Ltd. with all other parties.

- C262 - RSSO - Regulations - 1325/33 of 30.01.2004 - Scripless T-Bonds (Transactions)
- C263 - Gazette Notification - 1607/19 - 24.06.2009 – RSSO.
- C264 - CD containing transactions of PTL with all other parties. (See C238 A,B,C,D)
- C265A - Bonus and Profit Sharing details (Perpetual Treasuries Ltd) – 2015/16.
- C265B - Bonus and Profit Sharing details (Perpetual Treasuries Ltd) – 2014/15
- C266 - CD containing Perpetual Treasuries Ltd transactions.
- C267 - Press Release Economic Research Department – 29.03.2016 (Monetary Policy Review).
- C268 - Document containing WAV. File – Serial No. 111153.wav – 29.03.2016 – 10:38 a.m.
- C269 - Document containing WAV. File – Serial No. 135717.wav – 16.05.2016 - 12:53 p.m.
- C270 - Document containing WAV. File – Serial No. 111265.wav – 29.03.2016 – 4:27 p.m.
- C271 - Document containing WAV. File – Serial No. 18528.wav – 08.07.2015 – 10:54 a.m.
- C272 - Email from Mr. Manju Priyadharshana to the CBSL – 14.07.2016 Annexed: Capital Gains reports of PTL –April-June 2015, Jan-May 2016.
- C272B - Email from Mr. Kasun Palisena Ms. to Sandani Fernando of the CBSL – 04.07.2016. Annexed: Capital Gains Report of Perpetual Treasuries Ltd –November 2015.
- C272C - Email from Mr. Kasun Palisena to Ms. Sandani Fernando of the CBSL – 08.07.2016. Annexed: Capital Gain Report of Perpetual Treasuries Ltd - April 2016.
- C272D - Email from Mr. Kasun Palisena to Primary Dealer Supervision Division. (CBSL) – 17.10.2016 Annexed: Capital Gains Reports of Perpetual Treasuries Ltd – March 2016, June-Sep 2016.
- C272E - Email from Mr. Kasun Palisena to Primary Dealer Supervision Division (CBSL) – 17.10.2016 Annexed: Capital Gains Reports of Perpetual Treasuries Ltd – Jan-March 2015, May 2015, July-Oct 2015.
- C273 - Perpetual Treasuries Ltd Capital Gains Summary.
- C274 - Direction of the CBSL to Perpetual Treasuries Ltd (Covering Letter) – 07.11.2016.
- C274A - Direction of the CBSL to Perpetual Treasuries Ltd – 07.11.2016.
- C275 - Document containing WAV. File – Serial No. 63829.wav – 02.12.2015 – 12:51 p.m.
- C276 - Letter from CBSL to Perpetual Treasuries Ltd – 06.07.2017.
- C277 - Audio Recordings. Serial No. 86433 - Mr. K. Palisena
- C278 - Minutes of the meeting of the Sub Committee on Economic Affairs – 24.02.2017.
- C279 - Minutes of the meeting of the Sub Committee on Economic Affairs – 03.03.2015.
- C280 - Details of text message No.366 from Arjun Aloysius’s iPhone-compiled by Digital Forensics.
- C281 - Monetary Board, Board Paper- 09.02.2015- Corporate Management Committee.

- C282 - Monetary Board, Board Paper- 06.03.2015- Corporate Management Committee.
- C283 - Heads of Department Meeting No. 1/2015 - 10.02.2015.
- C284 - Affidavit –by Mr. Vasantha Kumar, CEO / People’s Bank
- C285 - Affidavit by Mr. Hemasiri Fernando, Chairman/ People’s Bank
- C286 - Affidavit by Mr. Aswin De Silva, Chairman / NSB.
- C287 - Affidavit by Mr. P.A. Lionel, Consultant – Treasury Division / NSB.
- C288 - Affidavit by Mr. Ronald Perera, PC, Chairman / BOC.
- C289 - Affidavit by Mr. V.S. Wickramarachchi, AGM / Treasury Division / BOC.
- C290 - CBSL - ERD - Press Release - Monetary Policy Review - September 2014.
- C291 - Reuters Article of 26.02.2015.
- C292 - Reuters Article of 26.02.2015.
- C293 - Table - Net Open Position - January -February 2015.
- C294 - Implementation of the Government Borrowing Programme July 2014 - February 2015 - Monthly report to Governor.
- C295A - Press Release dated 10.01.2014 - T-Bond Auctions held on 10.01.2014.
- C295B - Press Release dated 26.02.2014 - T-Bond Auctions held on 26.02.2014.
- C295C - Press Release dated 27.03.2014 - T-Bond Auctions held on 27.03.2014.
- C295D - Press Release dated 27.05.2014 - T-Bond Auctions held on 27.05.2014.
- C295E - Press Release dated 10.07.2014 - T-Bond Auctions held on 10.07.2014.
- C295F - Press Release dated 29.09.2014 - T-Bond Auctions held on 29.09.2014.
- C296 - Monetary Board, Board Paper- 14.09.2017- Meeting No.33/2017 - Item No. 4 - Observations of the CBSL on Report of the Auditor General.
- C297 - Table - Market Share Information in Primary Markets from 2013, 2014, 2015 and 2016.
- C298 - Table- CBSL purchases of T-Bills from 2014 to 2016 (According to the settlement Date).
- C299 - Table - ISIN wise Maturity profile of T-Bonds as at 30.01.2015.
- C300 - Table - T-Bills - (Outstanding, CBSL holdings, etc.).
- C301A - Monetary Board Minute Paper - Meeting No. 23/2017 - Date - 29.06.2017 - Item No. 9.1 - New T-Bond issuance system.
- C301B - Monetary Board Minute Paper - Meeting No. 25/2017 - Date - 20.07.2017 - Item No. 23- Proposed Primary Issuance System for Treasury Bonds.
- C301C - Monetary Board, Board Paper - Meeting No. 25/2017 - Date - 20.07.2017 - Proposed Primary Issuance System for Treasury Bonds.
- C302 - Refer to C204B.
- C303 - Page 37 of C204B- First sale.
- C304A - Folio 33.
- C304B - Folio 34.
- C305A - Deal ticket - signed by Mr. B.H.I.S. Kumara - Date - 02.11.2015.
- C305B - Deal ticket - signed by Mr. B.H.I.S. Kumara - Date - settlement date - 03.11.2015.
- C305C - Deal ticket dated- 06.11.2015 Folio 34 - signed by Mr. B.H.I.S. Kumara - “Deal Plotter”.
- C305D - Deal ticket dated- 09.11.2015 - signed by Mr. B.H.I.S. Kumara.
- C306 - Extract of C204B - page 132.
- C307 - Deal Ticket (02 pages)- C393 - both dated - 01.02.2016 - signed by Mr. B.H.I.S. Kumara.

- C308 - Transactions executed on 05.06.2015 - Secondary Market- EPF.
- C309 - Deal ticket - Series -12.50% '2045A' - signed by Mr. Udayaseelan-  
Date - 05.06.2015.
- C310A - Transactions executed on 03.11.2015 - Secondary Market- EPF.
- C310B - Transactions executed on 13.11.2015 - Secondary Market- EPF.
- C310C - Transactions executed on 16.11.2015 - Secondary Market- EPF.
- C310D - Transactions executed on 18.11.2015 - Secondary Market- EPF.
- C311 - Deal Plotter - 03.11.2015, Deal Tickets -13.11.2015, 13.11.2015,  
16.11.2015, 18.11.2015.
- C312 - Monetary Board Minute Paper - Meeting No. 15/2016 - Date -  
20.05.2016 - Item No. 26.3 & 26.4 - Monetary Board Statement on the  
Bond Auction held on 29.03.2016.
- C313A - ISIN LKB03045C013 End holdings at 29.06.2015-mfrom Lankasecure  
System.
- C313B - ISIN LKB03045C013 End holdings as at 30.09.2016 - from  
Lankasecure System.
- C314A - ISIN LKB01528I017 End holdings as at 13.05.2016 - from  
Lankasecure System.
- C314B - ISIN LKB01528I017 End holdings as at 30.09.2016 - from  
Lankasecure System.
- C315A - ISIN LKB0254A1A016 End holdings as at 25.02.2016 - from  
Lankasecure System.
- C315B - ISIN LKB0254A1A016 End holdings as at 30.09.2016 - from  
Lankasecure System.
- C316A - ISIN LKB01530E152 End holdings as at 13.05.2016 - from  
Lankasecure System.
- C316B - ISIN LKB01530E152 End holdings as at 30.09.2016 - from  
Lankasecure System.
- C317A - ISIN VLKB01226F014 End holdings as at 17.05.2016 - from  
Lankasecure System.
- C317B - ISIN LKB01226F014 End holdings as at 30.09.2016 - from  
Lankasecure System.
- C318A - ISIN LKB01025C157 End holdings as at 26.04.2016 - from  
Lankasecure System.
- C318B - SIN LKB01025C157 End holdings as at 30.09.2016 - from  
Lankasecure System.
- C319A - ISIN LKB02035C155 End holdings as at 10.12.2015 - from  
Lankasecure System.
- C319B - ISIN LKB02035C155 End holdings as at 30.09.2016 - from  
Lankasecure System.
- C320A - RSSO - Scripless Treasury Bonds (Transactions) 1325/33 of  
30.01.2004.
- C321 - Letter dated 18.12.2015 - from the CBSL to Perpetual Treasuries Ltd.
- C322 - Letter dated 11.01.2016 from Perpetual Treasuries Ltd to the CBSL.
- C323 - Monetary Board Minute Paper - Meeting No. 25/2017 - Date -  
04.03.2016 - Item No. 1.1 (b) - Transfer of regulatory & supervisory  
function of government securities to SNBFI. Annex – Monetary Board,  
Board Paper - Meeting No. 5/2016 - Date - 05.02.2016 - Transfer of  
regulatory & supervisory function of Government Securities Market to  
SNBFI.



- C324 - Letter dated 02.03.2016 from CBSL - Director SNBFI - to Secretary Treasury - Re- Regulation and Supervision of Primary Dealers.
- C324A - Gazette No. 1969/57 dated 03.06.2016 - Local T-Bills Ordinance
- C325 - (C284 CD) } Voice Recording of Mr. Vasantha Kumar, Mr. Hemasiri
- C326 - CD. } Fernando, Mr. Aswin de Silva, Mr. P.A. Lionel, Mr. Ronald  
C. Perera, Mr. Wickramarachchi, Mr. D.M. Gunasekara,  
Mr. S.M.S. Jayasuriya
- C327 - Voice Recording contained in C 284.
- C328 - Affidavit by Mr. Nuwan Salgado dated 12.10.2017.
- C328A - Annexure "A" - Table referring to Payments made to Informants.
- C328B - Annexure "B" - CD containing the voice recording of a conversation 25.06.2015.
- C329 - Affidavit by Mr. Nuwan Salgado - dated 12.10.2017.
- C330 - Affidavit by Mr. Kaushitha Ratnaweera dated 13.10.2017 including Annexures "K" - "K 20".
- C331A - Swift messages from Union Bank (7 folios).
- C331B - Swift messages from Union Bank - PTL to PCH.
- C331C - Cheques issued by Perpetual Capital Holdings Ltd.
- C331D - Summary of the total number of cheques.
- C332A - Authentication result - FIN -Copy - (Swift messages).
- C332B1 - W.M. Mendis and Co. Ltd - Bank Accounts A/C - B.O.C - folios – 229.
- C332B2 - Statement of Bank Accounts of W.M. Mendis and Co Ltd - Ltd Account No. 805 - 01.04.2016 -
- C332C - Cheques (15).
- C332D - Summary of Cheques.
- C333A - PTL A/C -PABC.
- C333B - Record of transactions of Perpetual Treasuries Ltd.
- C333C - Cheques - drawn by Perpetual Capital Holdings Ltd.
- C333D - Extract from the Bank Statement of Accounts.
- C334 - From CDS - Table - Primary Market and Secondary Market purchases by EPF 01.04.2016 -13.05.2016.
- C335 - Press Release dated 25.07.2017- (New Primary Issuance System for Treasury Bonds).
- C336 - Table and document prepared by Mr. Nihal Fonseka.
- C337 - Digital - extraction of data from Mr. Arjun Aloysius' phone.
- C338 - Press release by CBSL dated 04.04.2017 - T-Bond auction 04.04.2017.
- C339 - Press release by CBSL dated 29.03.2017 - T-Bond auction 29.03.2017.
- C340 - ISIN wise Analysis of Net Cash inflows (PTL purchases, PTL sales, Prices taken from outright report).
- C341A - PTL Net Cash inflows.
- C341B - Final summary of PTL disposals.
- C342 - Affidavit by Mr. Suresh Sedara, Assistant Director of the CBSL.
- C343 - Affidavit of Mr. P.W. Wickumsiri, Assistant Director of the CBSL.
- C344 - Table details of statements recorded by CID.
- C345 - Table details of statements led through IP Mr. N. Herath.
- C346 - Table details of statements led through IP Mr. I. Raban.
- C347 - Table details of statements led through IP Mr. Ranasinghe.
- C348 - Affidavit of Chief Inspector of Police Mr. B.M.A.S.K. Senarathna - Digital Forensics.
- C349 - Affidavit by Mr. Dhammika Perera.

- C350 - Forensic Report on Communication Information Analysis.
- C351 - Affidavit by Chief Inspector of Police Mr. B.M.A.S.K. Senarathne dated 15.11.2017
- C352 - Forensic Report on Communication Information Analysis - Supplementary Information- I.
- C353 - Forensic Report on Communication Information Analysis - Supplementary Information- II.
- C354 - Calls (Chart) – Mr. Arjun Aloysius.
- C355 - Calls (Chart) – Mr. Arjuna Mahendran.
- C356 - Calls (Chart) – Mr. Kasun Palisena.
- C357 - Calls (Chart) – Mr. Indika Saman Kumara.
- C358 - Calls (Chart) - Mr. Sangarapillai Padumanapan.
- C359 - Calls (Chart) - Mr. Naveen Anuradha.
- C360 - Forensic Report on Communication Information Analysis (Part II).
- C361 - Letter dated 10.10.2017 to the Secretary to the Hon. Prime Minister.
- C362 - Affidavit dated 20.10.2017 by the Hon. Prime Minister, with 1 Annexure.
- C363 - Letter dated 16.11.2017 to Hon. Attorney General.
- C362 - Letter 01.11.2017 sent by the Hon Attorney General’s Department.
- C365 - Letter 10.11.2017 sent to the Secretary to Hon. Prime Minister.
- C366 - Affidavit dated 18.11.2017 by the Hon. Prime Minister, with 11 Annexures.
- C367 - 3-year Strategy to Promote Growth and Employment in Sri Lanka.
- C368 - Short to Medium-term Debt Management Strategy to address Bunching Issues of the Public Debt Stock.

**Documents marked by Mr. P. Samarasiri**

- S1 - Yield rates 18.08. 2015 to 25.02. 2015.
- S2 - Treasury Bond auction 29.03.2016.
- S3 - Press Release 30.12.2015.
- S4 - Tabled Board paper – 07.10.2008.
- S5 - Tender Board Issue Direct placement September 2012.
- S6 - Government Borrowing Plan for 2013 (13 pages).
- S7 - HRD Circular No. 05/2015/04 dated 09.02.2015 (7 pages).  
Complaint against Mr. H.A. Karunaratne by Mr. Samarasiri.
- S8 - Internal memo from Mr. Samarasiri to SMB (Secretary Monetary Board) dated 14.03.2017.
- S9 - T-Bond issue (Direct placements) August 2011, Auction No. 11204.
- S10 - T-Bond issue (Direct placements) August 2011, Auction No. 11203.
- S11 - T-Bond issue (Direct placements) Jan 2009, Auction No. 09012.
- S11A - T-Bond issue (Direct placements) Jan 2009, Auction No. 09011.
- S12 - T-Bond issue (Direct placements) March 2009, Auction No. 09090.
- S12A - T-Bond issue (Direct placements) Jan 2009, Auction No. 09089.
- S13 - T-Bond issue (Direct placements) Jan 2009, Auction No. 09012.
- S13A - T-Bond issue (Direct placements) Jan 2009, Auction No. 09011.

S14	-	T-Bond issue (Direct placements) Feb 2009, Auction No. 09075.
S15	-	T-Bond issue (Direct placements) July 2009, Auction No. 09208.
S16	-	T-Bond issue (Direct placements) Jan 2009, Auction No. 09038.
S16(A)	-	T-Bond issue (Direct placements) Jan 2009, Auction No. 09037.
S17	-	Volume 1 - Auditor General's Report.
S18	-	Volume 2 - Auditor General's Report.
S19	-	Report of the Auditor General - Annexures.
S20	-	Monetary Policy Transmission mechanism.
S21	-	Treasury Bond Issue – 01.06.2014.
S22	-	Treasury Bond Issue – 01.06.2014.
S23A	-	Volume 6 - Auditor General's Report.
S23B	-	Volume 7 – Auditor General's Report.
S24	-	Minute Paper of the Monetary Board – 27.11.2009.
S25	-	Budget Speech 2017.
S26	-	Act Amending the Federal Reserve Act of the United States of America – H.R. 3189.
S27A	-	Policy Interest Rates and Treasury Bill rates.
S27B	-	CCPI Inflation (Y-o-Y), AWCMR, SRR, Policy interest rates and Treasury Bill rates.
S28	-	Press release of the Public Debt Department – 03.05.2017.
S29	-	Newspaper extract on CB introduction of repurchase transactions on electronic trading platform- 04.05.2017.
S30	-	Minutes of Monetary Board meeting – 31.03.2015.
S31A	-	Report of the Comptroller and Auditor General of India on Public Debt Management.
S31B	-	Audit Report of the Auditor General of UK.
S32	-	Letter from Deputy Governor, Samarasiri to the Superintendent of Public Debt – 2016.05.11.

#### **Documents marked by Hon. Bandula Gunawardena, MP**

BG1	-	Report of the examination on Perpetual Treasuries Ltd as at September 2015.
BG2	-	Central Bank Examination Report on Perpetual Treasuries Ltd.
BG2 A	-	-do-
BG3	-	Profit of Perpetual Treasuries Ltd.

#### **Documents marked by Mr. Arjuna Mahendran**

AM1	-	CBSL Annual Report 2015.
AM2	-	CBSL Report (Full).
AM3	-	Memo from SPD- dated 27.03.2014 - T-Bond Auctions.
AM4	-	11.05.2015 - Article on <a href="http://www.ft.lk">www.ft.lk</a> .
AM5	-	Table dated 03.04.2017 -Eligible Treasury Bonds for Foreign Investors.
AM6	-	Chart - Maturity Profile of SL Rupee Bonds as of 27.02.2015 (2017-2045).
AM7	-	Chart - Maturity Profile of SL Rupee Bonds as of 27.04.2017 (2017-2045).



AM8	-	Table - Bonds maturing by (2017-2045)
AM 9	-	CBSL Annual Report – 2016.
AM10	-	Table - ISIN No. LKB00210I153.
AM11	-	Table - ISIN NO. LKB004138018.
AM12	-	Weekly Economic Indicators dated 20.02.2015.
AM13	-	Weekly Economic Indicators dated 06.03.2015.
AM14	-	Weekly Economic Indicators dated 27.02.2015.
AM15	-	Weekly Economic Indicators dated 26.09.2015.
AM16	-	Weekly Economic Indicators dated 20.02.2015.
AM17	-	Press Release dated 23.09.2014 (Monetary Policy Review).
AM18	-	Weekly Economic Indicators dated 26.09.2015 (Marked twice - AM 15).
AM19	-	Weekly Economic Indicators dated 03.10.2014.
AM20	-	Press Release dated 17.10.2014 (Monetary Policy Review).
AM21	-	IMF & World Bank - Aide Memoire - December 2016.
AM22	-	Undated letter from the Minister of Finance to the Governor, CBSL.
AM23	-	27.02.2015 - Article on <a href="http://WWW.FT.LK">WWW.FT.LK</a> .
AM24	-	Press Release dated 18.03.2015 (Monetary Policy Review).
AM25	-	Weekly Economic Indicators dated 27.02.2015 (Marked twice - AM 14).
AM26	-	Weekly Economic Indicators dated 06.03.2015 (Marked twice – AM 13).
AM27	-	Weekly Economic Indicators dated 13.03.2015.
AM28	-	Weekly Economic Indicators dated 20.03.2015.
AM29	-	Weekly Economic Indicators dated 27.03.2015.
AM30	-	Weekly Economic Indicators dated 02.04.2015.
AM31	-	Weekly Economic Indicators dated 10.04.2015.
AM32	-	Weekly Economic Indicators dated 17.04.2015.
AM33	-	Weekly Economic Indicators dated 24.04.2015.
AM34	-	Weekly Economic Indicators dated 30.04.2015.
AM35	-	Table - Interest Rates - 27.02.2015 - 30.04.2015.
AM36	-	Parliamentary Debates (Hansard) – 24.01.2017.
AM37	-	Letter from the World Bank to the Prime Minister – 07.12.2016.
AM38	-	Private Placements in 30 Year Bonds 2014- Feb 2015.
AM39	-	CBSL PDD Press Release - 29.03.2016 - T-Bond Auction- 29.03.2016.
AM40	-	T-Bonds sold to EPF below market rate by CBSL - extracted from 'C154A'
AM41	-	Drop in Growth of EPF Fund - 2010 – 2016.
AM42	-	CBSL PDD Press Release - 04.04.2017 - T-Bond Auction- 04.04.2017.
AM43	-	CBSL PDD Press Release - 09.05.2017 - T-Bond Auction- 09.05.2017.
AM44	-	Table - Cash outflow and inflow - January 2015.
AM45	-	Table - Cash outflow and inflow - February 2015.
AM46	-	Sunday times article dated - 22.09.2015 - from <a href="http://www.sundaytimes.lk">www.sundaytimes.lk</a> .
AM47	-	Tables - EPF Treasury Bond Purchases and sales - December 2014 to May 2016.

- AM48 - Memo dated 17.02.2016 from Mr. Jayalath to Mr. Mahendran.
- AM49 - Memo dated 18.02.2016 from Mr. Mahendran to Mr. Chrysantha Perera.
- AM50 - Monetary Board Meeting - 18.12.2015.
- AM50(A) - Monetary Board, Board Paper -18.12.2015 - Item No.30 - EPF Ratification on Investment plan.
- AM50(B) - Table - EPF summary of T-Bond sales and purchases in November 2015.
- AM51 - Investment and Trading Guidelines - revised in December 2011 – ('C201A').
- AM52 - Monetary Board meeting - No.30/2015 - date - 18.12.2015
- AM53 - Monetary Board meeting - No.20/2015 - date - 17.08.2015 - matters arising from minutes.
- AM54 - "Daily News" - Article- 07.03.2015 - Change in policy and procedure on setting interest rates.

**Documents marked by Perpetual Treasuries Ltd.**

- PTL1 - Letter dated 04.04.2016 from the CBSL.
- PTL2 - PTL - Movements Report.
- PTL3 - Current Economic Indicators CBSL- OMO - 12.01.2015 – 27.02.2015.
- PTL4 - Current Economic Indicators CBSL- OMO - 25.02.2016 – 11.04.2016.
- PTL5 - Letter dated 04.04.2016 from CEO Perpetual Treasuries Ltd the CBS.
- PTL6 - Table – Transactions with Bank of Ceylon from 01.03.2014 to 26.02.2015.
- PTL7 - Table - Gain to the Bank of Ceylon from 01.03.20145 Bond – ISIN LKB03045C013.
- PTL8 - Email from Mr. Kasun Palisena to the Bank of Ceylon – 27.02.2017.
- PTL9 - Mr. Kasun Palisena's phone bill – No. 0777444669.
- PTL9A - Mr. Kasun Palisena's phone bill – No. 0777444669 – page 04 item 07 and 100.
- PTL10 - LKAS 39: Financial Instruments Recognition and Measurement (Power Point presentation).
- PTL11 - LKAS 39: Financial Instruments Recognition and Measurement (Written Document).
- PTL12 - Non-Current (Long Term) Liabilities – CFA Institute (Power Point presentation).
- PTL13 - Press Release dated 29.01.2013.
- PTL14 - Yield Curve 2010-2017.
- PTL15 - Yield Curve for 2015.
- PTL16 - Yield Curve – September – June 2016.
- PTL17 - First Capital Treasuries Ltd - Annual Report 2014/15.
- PTL18 - First Capital Treasuries - Annual Report 2015/16.
- PTL19 - Perpetual Treasuries Ltd Outright Transaction Summary Period 01.02.2015 - 31.03.2016.
- PTL20 - Report submitted by Perpetual Treasuries Ltd dated 15.11.2016.
- PTL21 - Agency functions for the Primary Market (Extract from CBSL website).

- PTL21A - Agency functions of Primary Dealers (Purpose for which Primary Dealers are appointed).
- PTL22 - People's Bank Primary Dealer Financial Statements.
- PTL23 - Page 07, Volume III of the Lanka Settle rules (Extract of C67C).
- PTL24 - Document containing Code System of CBSL.
- PTL25 - Circular issued by CBSL.
- PTL26 - Page 13 of Volume 3 of Lanka Settle System Rules
- PTL 27 - CBSL Circular NO: SSSS/01/2006 - Dated 28.02.2006.
- PTL28A - Letter sent by CBSL to Perpetual Treasuries Ltd.
- PTL28B - Letter sent by CBSL to Perpetual Treasuries Ltd.
- PTL28C - Letter sent by CBSL to Perpetual Treasuries Ltd
- PTL29 - Audited financial statements of Capital Alliance Ltd 31.03.2016.
- PTL30(a) - Interim Financial Statements for the Year ended 31.12.2015.
- PTL30(b) - Interim Financial Statements for the Year ended 31.12.2016.
- PTL30(c) - Interim Financial Statements for the year ended 31.03.2017.
- PTL31 - Audited financial statements of Natwealth Securities Ltd – 31.12.2016.
- PTL32(a) - Results of Treasury Bill Auction held on 30.03.2015.
- PTL32(b) - Confirmation of Deal.
- PTL32(c) - Outright Purchase of Treasury Bills - 30.03.2016
- PTL 33 - Email dated 17.02.2016 from Mr. R. Dias to Mr. K. Palisena  
Email dated 17.02.2016 at 4.55 p.m from Mr. K. Palisena to Mr. R. Dias.
- PTL34A - EPF Financial highlights 2014.
- PTL34B - EPF Financial highlights 2015.
- PTL34C - EPF Financial highlights 2016.
- PTL35A - Perpetual Treasuries Ltd - Business Plan 2013 - 2016 – Opportunities.
- PTL36A - CBSL's Letter dated 02.03.2016.
- PTL36B - CBSL's Letter dated 17.02.2016.
- PTL36C - CBSL's Letter dated 16.03.2017.
- PTL37 - Table - one basis point movement (0.01) and related capital gain.
- PTL38 - Financial Statements of Perpetual Treasuries Ltd (01.04.2014 – 30.09.2014).
- PTL39A - Financial Statements of Perpetual Treasuries Ltd (01.10.2012- 31.03.2014).
- PTL39B - Financial Statements of Perpetual Treasuries Ltd for the Year ended 31.03.2015.
- PTL39C - Financial Statements of Perpetual Treasuries Ltd for the Year ended 31.03.2016.
- PTL40A - Financial Statements of Perpetual Treasuries Ltd for the period ended 31.10.2014.
- PTL40B - Financial Statements of Perpetual Treasuries Ltd for the period ended 30.11.2014.
- PTL40C - Financial Statements of Perpetual Treasuries Ltd for the year ended 31.12.2014.
- PTL40D - Financial Statements of Perpetual Treasuries Ltd for the Year ended 31.01.2015.
- PTL41 - Table - Outright Bond Transactions (Tenor - 7 years and more) – 28.03.2014 - 26.02.2015.

- PTL42 - Chart depicting Foreign Reserve Assets - (January 2014 - May 2017).
- PTL43 - Chart depicting Yield Curve - (December 2014 - April 2017) - C89.
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- PTL57A - Table - Treasury Bond auction - 27.03.2014 - Series 11.20% 2022A.
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- PTL57C - Table - Treasury Bond auction - 27.03.2014 - Series 13.50% 2044A.
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- PTL58A - Table - Treasury Bond auction - 27.05.2014 - Series 10.60% 2019A.
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- PTL59 - Placement of Government Securities June 27, 2014 - ISIN – LKB03044F019.
- PTL60 - Letter of request dated 08.09.2015 from Perpetual Treasuries Ltd.
- PTL60A - CBSL Form - Information of release of foreign exchange - Form 1- sale of foreign exchange.
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- PTL61 - Perpetual Treasuries Ltd trading deal slip with Eagle Income Fund dated 19.03.2015.
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- PTL61B - Perpetual Treasuries Ltd Client instructions.
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- PTL64 - Daily FT article dated on 10.04.2015
- PTL65 - Sri Lanka Sovereign Risk rating– 08.10.2015 – source: [country.eiu/article.aspx](http://country.eiu/article.aspx) (Economist Intelligence Unit).
- PTL66 - Presentation by Mr. Nirugunan Tiruchelvam.
- PTL67 - Article - 'The Edge' Singapore – 'The exotic appeal of frontier bonds'.
- PTL68 - Article – Daily Mirror - 06.05.2016.
- PTL69 - Follow up note from Singapore Summit – 23.03.2016.

- PTL70 - Memorandum for Auction Recommendation –Bond Auction announcement for auction on 24.03.2016.
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- PTL80 - PTL - Deal Tickets and Confirmations corresponding to 7 ISINs in C176.
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- PTL81D - (C174) Sales Prices and Corresponding Yields (April- May 2016) ISIN LKB01528I017 (I4).
- PTL82A - (C174- F4) Sales and Prices and Corresponding Yields – ISIN LKB03045C013.
- PTL82B - (C174- G4) Sales Prices and Corresponding Yields – ISIN LKB01528I017.
- PTL82C - (C174- H4) Sales Prices and Corresponding Yields – ISIN LKB02541A016.
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- PTL83 - Bond Price Calculation for 01.03.2045 Bond (Bond pricing Equation prepared by Mr. Kasun Palisena).
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PTL92	-	Press Release - 28.10.2015.
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PTL96	-	Bloomberg Screen Image.
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PTL98	-	Federal Reserve - Press Release.
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PTL100	-	Press Release– 17.06.2012.
PTL100A	-	Secondary Market Yields on 15.06.2017 – CBSL Weekly Economic Indicators.
PTL100B	-	Press Release – 05.05.2017.
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PTL101	-	Press Release – 25.01.2016.
PTL102	-	Yield Curve from 04.09.2015 to 08.01.2016.
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PTL106	-	Email from Mr. Kavin Karunamoorthy to Mr. Kasun Palisena.
PTL107	-	Press Release – 19.02.2016.
PTL108	-	Reuters Article - 29.02.2016.
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PTL111A	-	IMF staff completes review mission to Sri Lanka – Article.
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PTL112	-	Perpetual Treasuries Ltd - Sales from 01.04.2016 – 31.05.2016.
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PTL117A	-	Perpetual Treasuries Ltd - Repo allocation :15.05.2030.
PTL118	-	Perpetual Treasuries Ltd - Secondary Market Transactions from 01.04.2016 to 31.05.2016 purchases form auction on 29.03.2016 ISIN: LKB01226F014.
PTL118A	-	Perpetual Treasuries Ltd - Repo Allocation: 01.06.2026.
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- PTL120 - PTL - Secondary Market Transactions from 01.04.2016 to 31.05.2016 purchases form auction on 29.03.2016 – ISIN: LKB01226F014 (Table).
- PTL121 - Capital Cain Calculation.
- PTL122 - Bulk Documents (Files relating to 7 ISINS F4-L4).
- PTL123A - First and final Dividend issued for the Financial Year 2014/2015.
- PTL123 B - First Interim Dividend issued for the Financial Year 2015/2016.
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- PTL123D - Final Dividend Issued for the Financial Year 2015/2016.
- PTL124 - Perpetual Treasuries Ltd - Holdings List as at 01.04.2016.
- PTL125 - 01<sup>st</sup> April 2016 - Settlement Process.
- PTL126 - 04<sup>th</sup> April 2016 - Settlement Process.
- PTL127 - Email correspondence between Mr. Kasun Palisena and Mr. Rohan Rodrigo of the CBSL).
- PTL128 - Perpetual Treasuries Ltd - Internal Memo.
- PTL129 - Bulk Document relating to 7 ISINs F4-L4 (in 5 volumes- overlaps with PTL 80).
- PTL130 - Voice Recordings of Perpetual Treasuries Ltd Dealer Room (CD 1).
- PTL131 - Voice Recordings of Perpetual Treasuries Ltd. Dealer Room.
- PTL131 - (Email dated 01.10.2015 from Ms. Ranali Fernando to Ms. Upeka Samarasinghe.
- PTL132 - Letter - EPF Repurchase agreement dated 06.03.2015.
- PTL132A - Perpetual Treasuries Ltd - Confirmation of Deal 1 - 06.03.2015.
- PTL132B - Perpetual Treasuries Ltd Trading Deal Slip - 03.03.2015 - Serial No. 04214.
- PTL132C - Perpetual Treasuries Ltd - Repo Deal with EPF 06.03.2015.
- PTL133 - Letter - EPF Repurchase agreement dated 13.03.2015.
- PTL133A - Perpetual Treasuries Ltd - Confirmation of Deal 1 - 06.03.2015.
- PTL133B - Perpetual Treasuries Ltd Trading Deal Slip - 03.03.2015 - Serial No. 04214.
- PTL133C - Perpetual Treasuries Ltd - Repo Deal with EPF 06.03.2015.
- PTL134 - Direction of the Establishment of a Branch Office by Primary Dealers.
- PTL135 - Perpetual Treasuries Ltd -, F 4 - Transaction Set 1 – Table.
- PTL136 - Natwealth Securities Ltd. - Cash Flow Report - 20.08.2015.
- PTL136A - Movements Report 20.08.2015.
- PTL136B - Perpetual Treasuries Ltd Trading Deal Slip - 18.08.2015 - Serial No. 08249.
- PTL136C - Perpetual Treasuries Ltd - Confirmation of Deal - 11.09.2017.
- PTL136D - Faxed document - 18.08.2015 - Treasury Bond Deal between Perpetual Treasuries Ltd and Natwealth Securities Ltd - ISIN NO. LKB00821H019.
- PTL136E - Natwealth Securities Ltd - Confirmation of Deal - 19.08.2015.
- PTL136F - Perpetual Treasuries Ltd Trading Deal Slip - 18.08.2015 - Serial No. 08242.
- PTL136G - Perpetual Treasuries Ltd - Confirmation of Deal - 11.09.2017.
- PTL136H - Email dated 18.08.2015 - from Mr. Kaushitha Ratnaweera.
- PTL136I - Natwealth - Confirmation of Deal - 19.08.2015.
- PTL137 - Table - Buy & Sell Transactions - 30.04.2015.



- PTL138 - Perpetual Treasuries Ltd - Memo dated 28.10.2014 - Fund t Transfer from Operation Account.
- PTL139 - Perpetual Treasuries Ltd - Swift Messages.
- PTL140 - Luxsmi Impex - Invoice for FJ Cruiser.
- PTL140A - Vehicle Registration - CAB -3007.
- PTL140B - RMV Data.
- PTL140C - Certificate of Registration.
- PTL140D - Perpetual Treasuries Ltd - Resolution for purchase of vehicle.
- PTL141 - Perpetual Asset Management Limited - Commercial Papers (02) 20.06.2014 & 21.07.2014.
- PTL142 - Perpetual Treasuries Ltd -Confirmation of Deal - 12.10.2017.
- PTL143 - Perpetual Treasuries Ltd - Confirmation of Deal – Reflecting payments in C328A.
- PTL144 - Perpetual Treasuries Ltd- Trading Deal Slips (02) - both dated 11.06.2015.

**Documents marked by Hon. Ravi Karunanayake, MP**

- Ravi(1) - Reported Outstanding Liabilities as at 31.12.2014, Payments & Balance in 2017.
- Ravi(2) - Letter dated 20.02.2015 from Director General - Department of Treasury Operations & Cash Flow Statement February, March 2015.

**Documents marked by Mr. Arjun Aloysius**

- AA 1 – Affidavit of Arjun Aloysius dated 23.07.2017
- AA 2 – Affidavit of Arjun Aloysius dated 25.07.2017

**Documents marked by Mr. Kasun Palisena**

- KP1 - Portfolio Summary of Perpetual Treasuries Ltd as at 21.07.2017.
- KP2 - Email (with annexures) from Mr. Sachith Devathanthri to Metropolitan Communications Ltd – 30.11.2015.
- KP3 - Work Order– 11.09.2015.
- KP4 - Work Order– Supplying 08 port voice logger with PC – 18.05.2015.
- KP5 - Work Order– Service for Nov 2014 – 03.11.2014.
- KP6 - Work Order – Service for Nov 2015 – 03.11.2015.
- KP7 - Work Order - Check voice logger- 06.11.2015.
- KP8 - Work Order – Supplying and Installing 16 port voice logger – 20.10.2016.

The aforesaid Documents are included in **ANNEX II** to this Report.

**Section 4.6 - Interlocutory Orders made by this Commission of Inquiry which are included in the Item 6 of the Appendix “ E ”**

**Section 4.7 - Written Submissions**

01. Written Submissions on behalf of Mr. Kasun Palisena submitted by Mr. Kalinga Indatissa, PC.
02. Written Submissions on behalf of Mr. Arjun Aloysius submitted by Ms. Nayana Dissanayake, Attorney-at-Law.
03. Written Submissions on behalf of Perpetual Treasuries Ltd submitted by Mr. G.G. Arulpragasam, Attorney-at-Law.
04. Written Submissions on behalf of Mr. Arjuna Mahendran, submitted by M/S Samararatna Associates, Attorneys-at-Law.
05. Written Submissions on behalf of Mr. B.H.I.S. Kumara, submitted by Mr. Harshana Nanayakkara, Attorney- at-Law and Ms. Malika Allapita Gedera, Attorney-at-Law.
06. Written Submissions on behalf of Mr. P. Samarasiri, submitted by Mr. Harsha Fernando, Attorney-at-Law.
07. Written Submissions on behalf of Hon. Ravi Karunanayake, MP, submitted by Premier Legal Consultants, Attorneys-at-Law.
08. Written Submissions on behalf of Mr. S. Padumanapan, submitted by Mr. Dinesh Vidanapathirana.
09. Written Submissions filed by Mt. T.H.B Sarathchandra.

Copies of the aforesaid Written Submissions are included in **ANNEX IV** to this Report.

A true copy of the entirety of the Proceedings before this Commission of Inquiry, including the evidence of witnesses, the Summaries of the evidence of witnesses, Oral Submissions made by Counsel and Orders and Statement made by the Commission of Inquiry, is found in **ANNEX V** to this Report. The Proceedings recording the evidence of each witness have been read and confirmed by that witness, wherever possible, and, such witness has placed his signature on the Proceedings, to confirm that they are correct. However, despite these efforts, it is evident that, the Proceedings still contain many typographical, grammatical and other errors which could not be corrected due to the lack of time.

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## CHAPTER 5

### **RELEVANT EVIDENCE OF EACH WITNESS**

As mentioned earlier, the 71 witnesses who are listed in Section 4.4 above, gave evidence before this Commission of Inquiry. Summaries of the evidence of each witness, which have been prepared by the legal assistant to the Commissioners, are included in Annex V to this Report.

The documents and audio recordings produced by these witnesses are listed in Section 4.4 above. Copies of these documents and audio recordings are included in Annex II to this Report.

In this Chapter, we will seek to briefly summarize the relevant evidence given by each witness.

Wherever possible, we will summarize the evidence of witnesses in “point form”, to aid the cause of brevity. Where evidence is quoted in the Report, such evidence is reproduced *verbatim* as it appears in the Proceedings, including the aforesaid typographical or grammatical errors.

When summarizing the evidence of the witnesses, we will follow the chronological order in which the witnesses appeared before this Commission of Inquiry.

The entirety of the evidence of each witness will be found in Annex V to this Report, if a reader wishes to refer to the evidence in more detail.

#### **Section 5.1 - Dr. Indrajith Coomaraswamy**

The first witness to give evidence before this Commission of Inquiry was Dr. Indrajith Coomaraswamy who is the Governor of the Central Bank of Sri Lanka [“CBSL”]. Dr. Coomaraswamy was appointed to that post on 04<sup>th</sup> July 2016 after the term of office of the previous Governor, Mr. Arjuna Mahendran ended on 30<sup>th</sup> June 2016.

The evidence of this witness will be set out in some detail since it encompasses his understanding, in his capacity as Governor of the CBSL, of many of the matters which are relevant to this Commission of Inquiry including: the duties and functions of the CBSL, the duties and functions of the Monetary Board, the duties and functions of the Governor of the CBSL, the duties and functions of the Department of Public Debt [“the PDD”], the manner in which Treasury Bond Auctions are held and the manner in which the total value of Treasury Bonds to be accepted at an Auction is decided.

Dr. Coomaraswamy also informed us of the measures recently taken by the CBSL to develop and strengthen the Primary Market in Treasury Bonds and to develop, strengthen and more closely regulate the Secondary Market in Treasury Bonds.

- 1] This witness highlighted that, the CBSL, the Monetary Board and the Governor have, *inter alia*, the duty to endeavour to achieve the objective of ensuring both price stability and economic stability by managing the rate of inflation in line with the Government's macroeconomic policies and also seek to achieve the required rate of growth and employment generation without creating instability in the form of high inflation or undue pressure on the balance of payments.
- 2] Dr. Coomaraswamy went on to highlight that, the CBSL, the Monetary Board and the Governor also have, *inter alia*, the duty to endeavour to achieve the objective of ensuring the stability of the financial system in Sri Lanka since the CBSL functions as the regulator and supervisor of the financial system in the country. Dr. Coomaraswamy termed these two objectives as the "*two core functions*" of the CBSL.
- 3] The witness pointed out that, in addition to these core functions, the CBSL performs agency functions on behalf of the Government by managing Government Debt, managing the EPF and assisting with rural credit programmes etc.
- 4] Dr. Coomaraswamy stated that, the management of Government Debt or, as it is more often termed, "Public Debt", is carried out by the Public Debt Department of the CBSL ["PDD"], which is headed by the Superintendent of Public Debt.
- 5] The witness explained that, the main duty and function of the PDD of the CBSL is to raise the money required by the Government by managing the issue of Government Securities such as Treasury Bills, Treasury Bonds, Sri Lanka Development Bonds and Sovereign Bonds, which are issued by the Government in order to raise Public Debt and to do so at a reasonable risk. He added that, the PDD is also entrusted with developing and strengthening the Government Securities Markets - namely, the Primary Market in which Treasury Bills, Treasury Bonds and Sri Lanka Development Bonds are issued and also the Secondary Market in which these Government Securities are, thereafter, traded on by and between the holders of these Instruments.
- 6] He explained that, by making the Primary Market more efficient and credible, the CBSL will be able to attract the investment, by both local and foreign investors, of more funds and resources in Government Securities and, thereby, reduce the cost of borrowing incurred by the Government. The witness stated that, developing and strengthening the Secondary Market and making it more

active, will help to establish a long-term yield curve which reflects an overall reduction in the cost of the Government's long-term borrowings and create a reliable benchmark based on which Public Debt can be raised, at acceptable costs, to mobilise funds required for development.

- 7] Dr. Coomaraswamy gave us an outline of the manner in which the PDD is structured – *ie:* the “Front Office” which is responsible for the function of the actual raising of Public Debt by conducting Auctions of Government Securities and making Direct Placements; the “Middle Office” which is responsible for carrying out research and analysis to determine how best the requirement of Public Debt is to be raised; and the “Back Office” which operates the Central Depository System in which transactions in Government Securities are carried out and recorded electronically, since Government Securities are issued and traded upon on a “scripless” basis.
- 8] He explained that, each month, the Treasury Operations Department of the General Treasury advises the PDD, by a letter, of the amount of Public Debt funding which is required by the Government for the next month (within the limits approved by Parliament by way of the Appropriation Act which is operative during that period) after taking into account: total revenue forecast in that month and total expenditure forecast in that month by way of recurrent expenditure, capital expenditure and debt service costs.
- 9] Dr. Coomaraswamy stated that, upon receipt of this letter issued by the General Treasury, the Domestic Debt Management Committee of the CBSL - which includes senior officers of the PDD, the Director of the Economic Research Department, the Director of the Domestic Operations Department, the Director of the Statistics Department and a representative of the Ministry of Finance - draws up a “Borrowing Programme” for the next month, taking into account Public Debt that will mature and fall due for payment that month and trends prevailing in the Government Securities Market such as the Yield Curve and the direction which the Yield Curve is expected to move in the future etc. The witness stated that, it is the Domestic Debt Management Committee which determines the Borrowing Programme for each month and that the Governor and the Monetary Board do not play a role in that exercise.
- 10] With regard to the manner in which a decision to hold an Auction of Treasury Bonds is taken, Dr. Coomaraswamy stated that, Treasury Bond Auctions are held “*as and when required*” and the dates of the Auctions are decided by the Domestic Debt Management Committee when it draws up the next month's Borrowing Programme. The witness went on to state that, the Domestic Debt Management Committee also decides the tenors (maturity period) of the Treasury Bonds to be offered at an Auction, the Coupon Rate (annual Interest

Rate) payable on the face value such Treasury Bonds and the value of Treasury Bonds to be offered at an Auction.

- 11] Dr. Coomaraswamy stated that, the tenors of the Treasury Bonds to be offered at Auctions will be determined taking into account the prevailing Yield Curve and Interest Rates and the directions which the Yield Curve and Interest Rates are expected to move in the future, with the aim of raising Public Debt at the least possible cost.
- 12] Thereafter, Dr. Coomaraswamy stated that, the Coupon Rate of a Treasury Bond *“is usually calibrated to align with the secondary market rate. You know for a 10-year bond what is the secondary market rate and essentially you would see that it is not very different from the secondary market rate.”*
- 13] The witness explained that, only licensed Primary Dealers and the Employees Provident Fund [“EPF”] are permitted to place Bids for the issuance of Treasury Bonds at such Auctions. He stated that, other investors, such as institutional investors, corporate entities and high net worth individuals, can place Bids through a Primary Dealer.
- 14] Dr. Coomaraswamy stated that, Notice of a Treasury Bond Auction is published in the newspapers about three days before the day of the Auction. Thereafter, on the specified day, the Treasury Bond Auction starts at 8.30 am and is concluded at 11.00am. The Auction is conducted electronically. Bids are placed and accepted electronically.
- 15] Dr. Coomaraswamy stated that, upon the conclusion of an Auction of Treasury Bonds, the Technical Evaluation Committee – which includes several officers of the PDD and some other senior officers of the CBSL – will evaluate a number of options on the total value of Bids which may be accepted for the issue of Treasury Bonds and the price or cost to the Government at which such Bids may be accepted. The Technical Evaluation Committee will also, usually, make its recommendation with regard to which option is best.
- 16] Thereafter, the Tender Board – which is a senior level Committee including the Deputy Governor and Assistant Governor in charge of the PDD, senior officers of the PDD, the Director of the Economic Research Department, the Director of the Domestic Operations Department and other senior officers of the CBSL - considers the several options identified by the Technical Evaluation Committee and the recommendation made by the Technical Evaluation Committee. The Tender Board then decides on the total value of Bids which are to be accepted for the issue of Treasury Bonds and the price or cost to the Government at which such Bids are to be accepted.



- 17] Dr. Coomaraswamy stated that, the Governor is not a member of any of the aforesaid Committees - *ie:* the Domestic Debt Management Committee, the Technical Evaluation Committee and the Tender Board - and commented that the, "*Idea is to keep that distance.*".
- 18] Dr. Coomaraswamy went on to state that, the decision of the Tender Board on the total value of Bids which are to be accepted, is sent to the Governor for his approval and that, the Governor has the authority to vary that decision, if he considers it necessary to do so. The witness expressed the view that, this authority is vested in the Governor because there may be circumstances where the Governor is in possession of relevant but highly confidential information which affects that decision, but which was not available to the Tender Board to consider in their deliberations. He added that, during his tenure as Governor, there has not been any instances where he saw a need to vary a decision taken by the Tender Board.
- 19] The witness stated that, initially, Treasury Bonds were issued through Auctions only. In 1997, CBSL permitted EPF to make Direct Placements (also known as "Private Placements") of Treasury Bonds. With the passage of time, institutions such as the National Savings Bank, the Employees Trust Fund and other Government institutions, which are sometimes collectively dubbed "Captive Sources", were also permitted to make Direct Placements of Treasury Bonds. Further, Primary Dealers were also given the opportunity to make Direct Placements of Treasury Bonds. Eventually, Direct Placements became the dominant mode of issuing Treasury Bonds.
- 20] Dr. Coomaraswamy stated that, in these circumstances, a decision to dispense with Direct Placements as a mode of issuing Treasury Bonds would require a process of deliberation and consideration before such a decision was taken and that any such decision should be a "*considered decision*". Dr. Coomaraswamy agreed that, "*there is a structured decision-making process that should normally apply.*" He went on to observe that, in his view, a decision of that nature should be taken only after obtaining the input of persons with a "*range of skills and expertise*" in areas such as the workings of the Government Securities Market, the Monetary Policy implications of ceasing to accept Direct Placements, an overall knowledge of the Government's financial obligations, a maturity schedule of Government Securities and Treasury Operations etc.
- 21] In this connection, Dr. Coomaraswamy also stated that "*In that time I've been in office, the principle I tried to adhere to (is) to ensure that any policy matter is referred to the Monetary Board.*". He added that, in terms of Sections 8 (1) of the Monetary Law Act, the Monetary Board was invested with the power to decide matters relating to Policies and Measures of the CBSL and that this authority could not be delegated to the Governor to exercise as an individual.



- 22] When Dr. Coomaraswamy was asked whether it is usual for a Governor to visit the PDD during a Treasury Bond Auction, he replied. *“No. I don’t see a requirement for the Governor to go there. Because the Tender Board brings these outcomes to the Governor.”*.
- 23] Dr. Coomaraswamy stated that, the CBSL now holds “Pre-Bid Briefing” before a Treasury Bond Auction and that CBSL is also seeking to introduce an annual Treasury Bond Auction calendar.
- 24] Dr. Coomaraswamy stated that, from 27<sup>th</sup> February 2015 onwards, the CBSL has issued Treasury Bonds only at Auctions and that Direct Placements have not been accepted.

However, the CBSL has seen the need to change this practice and introduce a “Hybrid System” system which will incorporate the issuance of Treasury Bonds by way of Auctions and also enable the issuance, where required, of a component of Treasury Bonds by way of Direct Placements, together with introducing an element of “underwriting” into the process in circumstances where the CBSL considers it necessary to do so. The witness said that, the CBSL has been working for several months on the development of this “Hybrid System”. He said that there have been discussions with the Ministry of Finance and Primary Dealers with regard to the proposed changes. The witness also stated that, the CBSL is obtaining the assistance of the World Bank, IMF and the ADB in the development of the modalities of the proposed “Hybrid System”. With regard to this exercise, Dr. Coomaraswamy observed that, *“The processes have been more complex and issues quite challenging in terms of working out it through.”*.

**Section 5.2** - **Dr. R.H.S. Samaratunga**

Dr. Samaratunga is the Secretary to the Treasury and also the Secretary to the Ministry of Finance. The evidence of this witness was interrupted to lead the evidence of Ms. G.K.D. Liyanage, the Government Printer, since the Commission of Inquiry wished to obtain evidence with the regard to Notices of Treasury Bond Auctions published in the Government Gazette, before Dr. Samaratunga completed his evidence.

The relevant evidence of this witness is:

- 1] From January 2015 onwards, he has been the Secretary to the Treasury and also the Secretary to the Ministry of Finance.

- 2] From January 2015 onwards, he has also been an *ex officio* member of the Monetary Board in his capacity as Secretary to the Treasury and Secretary to the Ministry of Finance. He serves on the Monetary Board to facilitate coordination between the Government's Fiscal Policy and the Monetary Policy determined and implemented by the CBSL.
- 3] The Treasury and Finance Ministry have, *inter alia*, the principal duties of managing Government Revenue, managing Government Expenditure and managing Public Debt. The need to manage Public Debt arises since Governments have continuously incurred expenditure which exceeds revenues and, as a result, the deficit has to be funded by way of Public Debt. This has been so for many years.
- 4] The maximum amount of overall Public Debt which may be raised in a year, is decided by Parliament by way of the Appropriation Act which is passed by Parliament with the approval of the annual Budget for that year.
- 5] The CBSL acts as the agent of the Government when raising Public Debt.
- 6] The Treasury Operations Department of the Treasury and the PDD of the CBSL have a "*continuous dialogue*" with regard to the manner of raising the Public Debt which is required to fund the aforesaid deficit.
- 7] At the beginning of each financial year, the Treasury, in consultation with the PDD of the CBSL, prepares a Debt Repayment Programme and a Borrowing Programme for that year.
- 8] Thereafter, each month, the Treasury Operations Department prepares a Cash Flow Statement for the next month. This Cash Flow Statement sets out the expected Revenue in that month, the expected Expenditure in that month, the Debt Repayments which fall due for settlement in that month and, finally, the Deficit which has to be funded by way of Public Debt to be raised in that month.
- 9] This Cash Flow Statement for the next month is then sent to the PDD together with a letter written by the Treasury Operations Department, so that the CBSL's Borrowing Programme for the next month can be prepared by the CBSL - *ie*: to enable the CBSL to be aware of the amount of Public Debt that has to be raised that month and to decide on how that is to be done.
- 10] If, during the course of a month, the Treasury Operations Department finds it necessary to amend the amount of Public Debt that has to be raised in that month, the Treasury Operations Department will send a "Revised Cash Flow Statement" to the PDD together with another letter written by the Treasury Operations Department.

- 11] Thereafter, the manner in which the required amount of Public Debt is raised each month - *ie*: the types of Government Securities to be issued, their Tenor, the Interest Rates payable thereon, the date of issue etc. and other matters falling within the province of Monetary Policy - are usually decided by the CBSL.
- 12] The witness could not recall any request made by the Treasury to the CBSL, in the months of February and March 2015, to raise any additional Public Debt over and above the requirement set out in the Cash Flow Statement for the month of March 2015 which had been prepared by the Treasury Operations Department and sent to the PDD in the month of February 2015.
- 13] The witness stated that he could not recall attending a meeting at the CBSL on 26<sup>th</sup> February 2015. He added that he attends a large number of meetings, usually on a daily basis.
- 14] The witness stated that, until the meeting of the Monetary Board held on 06<sup>th</sup> March 2015, he was unaware of any decision taken to suspend accepting Direct Placements. He added that, any such proposal should have been first discussed by the Monetary Board before a decision was taken. He agreed that, when Mr. Arjuna Mahendran instructed that, Direct Placements be suspended/stopped from 27<sup>th</sup> February 2015 onwards, he had *“Implemented a shift in a policy (to) related matter without obtaining the views and concurrence of the Monetary Board.”*

**Section 5.3** - **Ms. G. K.D. Liyanage**

Ms. G.K.D. Liyanage is the Government Printer (Acting).

The relevant evidence of this witness is:

- 1] By a letter dated 24<sup>th</sup> December 2014 marked “**C26**”, the PDD requested the Department of Government Printing to “reserve” a Gazette Number to have a Notice subsequently published in a Government Gazette dated 01<sup>st</sup> January 2015.
- 2] Acting on this request, the Department of Government Printing “reserved” Gazette No. 1895/19. This number indicates that the Government Gazette bearing that number was published in the first week of January 2015.
- 3] Thereafter, on 17<sup>th</sup> November 2016, the PDD of the CBSL provided the Department of Government Printing with the draft of the Notice with regard to Treasury Bonds issued in the year 2015, which was to be published in a Government Gazette dated 01<sup>st</sup> January 2015.

- 4] Accordingly, the aforesaid Notice provided by the CBSL in the month of November 2016, was later published in Government Gazette No. 1895/19 which bore the date 01<sup>st</sup> January 2015, but was printed in the month of November 2016. The number No. 1A/G/24570/17 (2016/11) appearing at the bottom of the page of that Notice in the Government Gazette records the fact that, the draft Notice was received in the month November 2016.

The said Notice of Treasury Bonds issued in the year 2015, which was published in the Government Gazette bearing no. 1895/19 and bearing the date 01<sup>st</sup> January 2015, was earlier produced by Dr. Samaratunga, marked “C25”.

- 5] Since the draft Notice received on 18<sup>th</sup> November 2016 to be published in the Government Gazette bearing the date 01<sup>st</sup> January 2015 did not bear the name of the Minister of Finance who held that office in November 2016 as the Signatory but, instead, bore the name of the previous Minister of Finance who held that office in January 2015, an officer of the Department of Government Printing had checked with the PDD as to whether this was an error. In reply, the PDD had confirmed that, the name of the previous Minister of Finance who held that office in January 2015, should appear as the Signatory in the Notice since it was to bear the date 01<sup>st</sup> January 2015.
- 6] The witness stated that, the practice which was set out above - *ie*: the practice of the PDD, towards the end of each year, “reserving” a Gazette Number to enable publication of a Government Gazette which bears the date 01<sup>st</sup> of January of the next year but only submitting the Notice setting out the Treasury Bonds issued in that next year, for publication in the Government Gazette, only sometime in the year after that - had been followed for many years prior to the years 2015 and 2016.
- 7] During this entire period, similar arrangements for the publication of the Notice bearing the date 01<sup>st</sup> January of each year have been made by the PDD of the CBSL. The Ministry of Finance does not involve itself in this process.

**Section 5.4** - **Dr. M.Z.M. Aazim**

Dr. Aazim is presently, the Additional Director of the Statistics Department of the CBSL.

Dr. Aazim had served in the PDD for several years and was knowledgeable about the operations of the PDD. In February 2015, Dr. Aazim served as the Additional Superintendent of the PDD. Thus, he had personal knowledge of the events relating to the Treasury Bond Auction held on 27<sup>th</sup> February 2015, which is of relevance to this Commission of Inquiry. Dr. Aazim struck us as being an objective, careful and

intelligent witness and we are of the view that, this Commission of Inquiry can place a degree of reliance on his account of those events.

The relevant evidence of this witness is:

- 1] The witness had served in the PDD for about five years from 2000 to 2005 and then served in the Economic Research Department from 2006 to 2008 and from 2011 to 2013. In between 2006 and 2013, he had read for a Master's Degree in Japan and a Doctoral Degree in Australia. His Doctoral research concentrated on "Transformation of Monetary Policy and Yield Curve Dynamics". In the month of September 2013, the witness was appointed Deputy Superintendent of Public Debt in the PDD and was promoted to the post of Additional Superintendent of the PDD in the month of August 2014. He functioned in this post until the month of September 2015, when he was transferred from the PDD and was appointed Additional Director of the Statistics Department.
- 2] In 2015, the PDD comprised of the following 06 units: the Front Office, the Middle Office, the Back Office, the Central Depository Unit, the Supervision Unit and the Support Services Unit.
- 3] The main function of the **Front Office** is to mobilize funds, by way of Public Debt, to meet the Government's budgetary requirements, within the limits specified in the Appropriation Act. The main functions of the **Middle Office** are to analyse the risk involved in mobilizing the aforesaid funds, to maintain data bases and to attend to the required publications relating to the PDD. The main function of the **Back Office** is to service Public Debt Payments. The main function the **Central Depository Unit** is to record transactions on Government Securities, which are issued and traded upon on a "scripless" basis. The main function of the **Supervision Unit** is to monitor and supervise the operations of Primary Dealers. The **Support Services Unit** provides services to the PDD.
- 4] The Head of the PDD is the Superintendent of Public Debt. In 2015, the next level of executive officers consisted of two Additional Superintendents of Public Debt. The third level of executive officers consisted of two Deputy Superintendents of Public Debt. Each of the aforesaid six units of the PDD is in the charge of a Senior Manager who is known as the "Head" of that Unit.
- 5] During his tenure as Deputy Superintendent of Public Debt and, thereafter, as Additional Superintendent of the PDD, the witness oversaw the Front Office and Middle Office of the PDD. As Additional Superintendent of the PDD, he reported to the Superintendent of Public Debt.

- 6] When the witness commenced serving as Deputy Superintendent of Public Debt in 2013, Mr. Dhammika Nanayakkara was the Superintendent of Public Debt. Mr. Nanayakkara served in that capacity until 09<sup>th</sup> February 2015, when he was transferred to another Department and Ms. Deepa Seneviratne assumed duties as the Superintendent of Public Debt. Ms. Seneviratne was serving in that capacity in September 2015 when the witness was transferred out of the PDD.
- 7] The witness briefly described types of Government Securities issued to raise Public Debt.

He said that, **Treasury Bonds** are Government Securities which are denominated in Sri Lanka Rupees and have a face value of Sri Lanka Rupees 100/- each. The issue of Treasury Bonds commenced in 1997. Treasury Bonds are issued for tenors of 02 years or more.

The Government pays a fixed rate of interest - which is termed the "Coupon Rate" - on the face value of Treasury Bonds. Payment of interest is made half yearly. The witness stated that, the Coupon Rate *"..... is dependent upon number of debt management considerations, mainly, medium term debt management strategy and it often depends on prevailing market conditions and the time duration of bonds that we are looking at."*

The witness said that, Treasury Bond may be issued *"at par value"* [ie: sold, at the time of issue, for a price which is the same as the face value of the Treasury Bond] or *"at a premium"* [ie: sold, at the time of issue, for a price which is higher than the face value of the Treasury Bond] or *"at a discount"* [ie: sold, at the time of issue, for a price which is lower than the face value of the Treasury Bond].

The witness went on to say that, **Treasury Bills** are short term Government Securities which are also denominated in Sri Lanka Rupees and are issued for tenures up to 364 days. Treasury Bills are usually issued at a discount.

**Sri Lanka Development Bonds** are issued in Sri Lanka, but are denominated in U.S. Dollars and are, in other aspects, similar to Treasury Bonds. In addition, the Government may borrow monies in foreign currency by way of Sovereign Bonds, which are issued in foreign markets or by way of loans denominated in foreign currency.

- 8] The witness stated that, the issue of Treasury Bonds takes place on the **Primary Market**, which is where the CBSL issues (sells) the Treasury Bonds. At the time of issue, the Treasury Bonds within the series which is issued, will be allocated a unique International Security Identification Number [ISIN].



Only Primary Dealers and the Employees' Provident Fund ["the EPF"] are able to purchase Treasury Bonds at the time they are issued by the CBSL on the Primary Market. Thus, the only participants in the Primary Market are the CBSL, Primary Dealers and the EPF. In the year 2015, there were 16 licensed Primary Dealers.

Treasury Bonds are "marketable" instruments. Thus, Primary Dealers and the EPF can also buy or sell Treasury Bonds and trade upon Treasury Bonds, between themselves, in the **Secondary Market**.

Further, Corporate institutions and individuals who wish to purchase Treasury Bonds, can do so in the Secondary Market through accounts they maintain with Primary Dealers. Corporate institutions and individuals who purchase Treasury Bonds from Primary Dealers can hold those Treasury Bonds and receive payment of interest (from the Government), at the Coupon Rate, on a half yearly basis, on the face value of the Treasury Bond, while they hold the Treasury Bond. If they hold the Treasury Bond up to its maturity date, the holder will receive payment (from the Government) of the face value of the Treasury Bond on the maturity date. Alternatively, Corporate institutions and individuals who purchase Treasury Bonds from Primary Dealers can buy or sell or trade upon such Treasury Bonds in the Secondary Market through accounts they maintain with Primary Dealers.

- 9] When the PDD receives the Cash Flow Statement for the next month, the Domestic Debt Management Committee draws up the Borrowing Programme for the next month. The Chairman of the Domestic Debt Management Committee is the Superintendent of Public Debt. The other members are the Additional Superintendents of Public Debt, the Director of the Treasury Operations Department, the Director of the Domestic Operations Department and the Director of Economic Research. In the month of February 2015, the witness was the Secretary of the Domestic Debt Management Committee.
- 10] The witness stated that, the function of the Domestic Debt Management Committee is to conduct the management of Public Debt at the least possible risk to the Government and to raise Public Debt at the least possible cost to the Government.
- 11] When the witness was asked to describe Direct Placements, he stated that, it is a mode of fund raising which is defined in the PDD's Operations Manual. He said that, Direct Placements entail issuing Treasury Bonds, in the Primary Market, to Primary Dealers and the EPF and other "Captive Sources" [such as the National Savings Bank, the Bank of Ceylon, the People's Bank and some other state institutions], through the "Placement Window" maintained by the



PDD. He said that, the issue of Treasury Bonds by way of the acceptance of Direct Placements in the aforesaid manner commenced, in 2008.

He said that, when the PDD wished to accept Direct Placements of Treasury Bonds, it would offer to accept Bids at a price which is determined by the PDD. The witness stated that, this price is based on the prevailing Yield Rates for the Treasury Bond that is being issued.

The witness said that, the EPF and “Captive Sources” and Primary Dealers who have expressed an interest in making Direct Placements are advised by the PDD, by telephone, when Direct Placements are to be accepted by the PDD. He said that, when doing so, the PDD advises the Yield Rates at which Bids for Direct Placements will be accepted.

If the EPF or a “Captive Source” or a Primary Dealer wishes to make Direct Placements of Treasury Bonds at the indicated Yield Rates, they will make their Bids through the “Placement Window”. The witness said that, such Bids for Direct Placements are accepted on a “first come, first serve” basis, by the PDD, up to the amount of funds which is then required. He said that, the PDD then advises the Primary Dealer or the EPF or “Captive Source”, by telephone, if their Bids have been accepted.

He stated that, after Direct Placements are made by the PDD, the details of the Direct Placements are sent to the Assistant Governor and Deputy Governor, for their information and covering approval.

- 12] The witness stated that, from the time he was attached to the PDD in 2013, Direct Placements were the “*main mode*” of issuing Treasury Bonds. He went on to say that, in 2013, and 2014, more than 75% of Direct Placements were made by the EPF or other “Captive Sources” and only about 25% of Direct Placements were made by Primary Dealers.
- 13] The witness stated that, during this period and up to February 2015, the PDD had not received any complaints with regard to the manner in which Direct Placements were accepted by the PDD. In reply to a question posed by the Commission of Inquiry, the witness said that, in February 2015, this mode of issuing Treasury Bonds was operating “*smoothly*”.
- 14] The witness stated that, on 23<sup>rd</sup> February 2015, the PDD received the Daily Cash Flow Statement for the month of March 2015 prepared by the Treasury Operations Department and sent to the PDD with the Treasury Operations Department’s letter, which were compendiously marked “**C12A**”.

As set out in the Daily Cash Flow Statement for the month of March 2015, the PDD was required to raise Public Debt amounting to Rs.172 billion in the month of March 2015, which included a sum of Rs.13.55 billion required on 02<sup>nd</sup> March 2015.

- 15] The witness stated that, the PDD initially intended to raise the sum of Rs.13.55 billion required on 02<sup>nd</sup> March 2015 by accepting Direct Placements.
- 16] On 24<sup>th</sup> February 2015, the PDD was informed that, the Monetary Board had instructed, on 23<sup>rd</sup> February 2015, that a Treasury Bond with a 30 year tenor be issued at an Auction during that week.

This instruction was conveyed to the PDD by Mr. Ananda Silva, Deputy Governor. Mr. Silva had been overseeing the PDD prior to Mr. Samarasiri taking over the function on 09<sup>th</sup> February 2015. The Superintendent of Public Debt had confirmed this instruction by speaking to Mr. H.A. Karunaratne, Secretary to the Monetary Board. The written instruction had been received by the PDD on 26<sup>th</sup> February 2015. A Press Notice of the Auction has also been published on 26<sup>th</sup> February 2015.

- 17] In accordance with the aforesaid verbal instruction conveyed to the PDD on 24<sup>th</sup> February 2015, the PDD published a Notice placed on the CBSL Website, on 25<sup>th</sup> February 2015, that an Auction will be held on 27<sup>th</sup> February 2015 for the issue of 30 Year Treasury Bonds up to a sum of Rs.1 billion with a Settlement Date of 02<sup>nd</sup> March 2015.
- 18] The PDD had intended that, after that Auction was closed on 27<sup>th</sup> February 2015 and the amount which will be raised at the Auction is decided, the balance component of the sum of Rs.13.55 billion needed on 02<sup>nd</sup> March 2015 would be raised by way of Direct Placements.
- 19] On 27<sup>th</sup> February 2015, the Domestic Debt Management Committee had prepared the Borrowing Programme for the month of March 2015, which was marked "**C39B12**".

This Borrowing Programme for the month of March 2015 reflected the aforesaid decision to issue 30 Year Treasury Bonds up to a sum of Rs.1 billion at an Auction with a Settlement Date of 02<sup>nd</sup> March 2015.

- 20] On 27<sup>th</sup> February 2015, the aforesaid Auction commenced at 8.30 am, as usual. Bids were received electronically on a computer located in the Front Office. Details of the Bids received during the Auction are not available until the Auction closes. Data with regard to the Bids received can be accessed on that computer and be read and a printout obtained, only after the Auction is closed.

- 21] The Auction was due to close at 11.00 am, but was extended up to 11.05 am by the Superintendent of Public Debt, at the request of a Primary Dealer. That Primary Dealer was HSBC. It is not unusual to grant such short extensions of time for “*acceptable reasons*” if a Primary Dealer encounters a difficulty and requests a short extension of time.
- 22] Around 10.45 am, while the Auction was underway, Mr. Arjuna Mahendran, Governor of the CBSL came in to the PDD and entered the room of the Superintendent of Public Debt.

Very soon thereafter, the witness and Ms. U.L. Mutugala, who was the other Additional Superintendent of Public Debt, had also entered that room.

Mr. Mahendran had sat down on a sofa in that room and “..... *first he inquired about the Auction details*” and specifically the Bids that had been received. The Superintendent of Public Debt had informed him that, since the Auction was still in progress, these details were not available at that time and that, the response of the market to the Auction, would be known only after the Auction is closed.

Mr. Mahendran had also stated that there had been a discussion held the previous day with regard to “*additional government funding requirement*” pertaining to “*road development activities*”. Mr. Mahendran had not mentioned an amount that was required or mentioned the parties to the discussion.

Thirdly, Mr. Mahendran had referred to the “*modality of funding we practice at that time*” - *ie: Auctions and Direct Placements* - and Mr. Mahendran mentioned “*his preference for auctions, Sir, based financing*”. The witness said that, in this connection, Mr. Mahendran also mentioned “..... *some discussions Sir. And they prefer auction based finance.*”.

The witness had then left the room of the Superintendent of Public Debt since he had to attend to some duties relating to the impending closure of the Auction. At the time the witness left the room, Mr. Mahendran, the Superintendent of Public Debt and Ms. Mutugala were in that room. As the witness was leaving the room,

Mrs. M.S.M.P. Fernando, the Head of the Front Office had walked into the room to inform the Superintendent of Public Debt that an extension of the Auction had been requested by HSBC.

- 23] Mr. Mahendran had then left the PDD at a time close to 11.00 am. The witness stated “*I believe it’s somewhere around 11, 11..... I precisely not sure what time he was walking. But, we have not started out downloading any document.*”.

- 24] The witness stated that, prior to that day, he has not seen any other Governor enter the PDD during an Auction.

The witness added that, the Auction held on 27<sup>th</sup> February 2015 was the first Treasury Bond Auction held after Mr. Mahendran assumed duties as the Governor.

- 25] After Mr. Mahendran left the PDD and after the Auction closed, the Bids received were accessed on the computer and printed out in Bids Received Sheets which are formatted in two ways - *ie:* (i) a Bids Received Sheet listing the Bids received in chronological order of the time when the Bids were received, which was marked “**C39B3**”; and (ii) a Bids Received Sheet listing the Bids received in order of the prices at which the Bids are made (best price for CBSL first), which was marked “**C39B4**”.

The witness explained that, as set out in the Bids Received Sheet marked “**C39B4**”, 36 Bids had been received from the 16 Primary Dealers who participated in the Primary Market in February 2015 and from the EPF.

Dr. Aazim stated that, as set out in the Bids Received Sheet marked “**C39B4**”, the best price received on a Bid [for the CBSL] was for the Bidder to pay the CBSL a sum of Rs.119.3342 (per Rs.100/- unit of that Treasury Bond] and the lowest price received on a Bid [for the CBSL] was for the Bidder to pay the CBSL a sum of Rs.62.6216 (per Rs.100/- unit of that Treasury Bond].

- 26] When the witness was asked about the Bids totaling Rs.2 billion made by the EPF at this Auction, he said “*As far as EPF concerned, they usually, the biggest buyer in treasury bond market.*” and added that, usually Bids made by the EPF “*..... constitute a large part or large proportion of the value of the bids received at a treasury bond auction.....*”.

- 27] When the witness was asked by the Commission of Inquiry whether the EPF would, when making Bids at an Auction, work together with the CBSL to guide the prices and Yield Rates in line with the objectives of the CBSL, he replied “*Of course, Sir, when it comes to the issuance.*”.

When the witness was specifically asked by the Commission of Inquiry whether the EPF would bid at rates which would be in line with the policies and wishes of the CBSL, he replied “*Their decision to bid is Sir, on a investment committee decision based.*” and “*So they probably factoring in these things. But not having a dialogue on that nature with the PDD.*”.

- 28] The witness stated that, thereafter, the Bids received were subjected to a “*technical evaluation exercise*” by the Superintendent of Public Debt, the two

Additional Superintendents of Public Debt and the Head [Manager] of the Front Office in an effort to work out the quantum of the Bids that should be accepted to ensure the optimum benefit for the Government and to incur the minimum risk possible. This evaluation takes into account the Government's Cash Flow requirements, the behavior of the Market, prevailing Interest Rates and other economic and monetary factors.

This evaluation is then documented in the form of an Option Sheet which sets out seven options with regard to the quantum of the Bids that could be accepted and an eighth option which is recommended by the PDD. The Option Sheet prepared by the PDD in respect of the Treasury Bond Auction held on 27<sup>th</sup> February 2015 was marked "**C39B5**".

As set out in the Option Sheet marked "**C39B5**" prepared by the PDD, the recommendation made by the PDD, after the aforesaid evaluation, was that Bids to a value of Rs. 2.608 billion be accepted.

- 29] This Option Sheet is prepared by the PDD to submit to the Tender Board which will discuss the options and decide the quantum of the Bids that are to be accepted and be recommended to the Governor, for approval.

Usually, the Tender Board meets at 12.30 pm.

- 30] Before that, Mr. Mahendran entered the PDD. He was accompanied by Dr. Nandalal Weerasinghe, Deputy Governor and Mr. Ananda Silva, Deputy Governor.

They had walked into the room of the Superintendent of Public Debt. The witness and Ms. U.L. Mutugala and Mrs. M.S.M.P. Fernando, the Head of the Front Office had also entered that room.

Mr. Mahendran inquired about the Auction. The Superintendent of Public Debt informed him that Bids for approximately Rs.20 billion had been received. Mr. Mahendran had then responded saying "*..... we will accept all. He mentioned that we will accept the entirety of bid received.*" The witness said that he informed Mr. Mahendran that, if all the Bids are accepted, "*the Interest Rate structure would have been substantially elevated ..., in the event of accepting the entirety would make the term structure of Interest Rates for government securities substantially higher.*". The witness said that he had also pointed out that some of the Bids could be "Dummy Bids" made at unrealistically low prices solely with the intention of meeting the requirement that all Primary Dealers must bid for at least 10% of the offered amount at a Treasury Bond Auction. The Superintendent of Public Debt had also expressed a concern that it was not advisable to accept the entirety of the Bids received.

Mr. Mahendran had then asked the witness to identify which Bids were Dummy Bids. The witness had stated that it may not be possible to easily identify the Dummy Bids. In any event, in order to comply with Mr. Mahendran's request, the witness had looked at the Bids *"towards the bottom part of the bid received"* Sheet.

The witness stated that, at this time, Mr. Mahendran inquired what the pre-September 2014 Interest Rate structure was and took the Bids Received Sheet marked **"C39B4"** into his hand. In this regard, the witness stated, *"..... and then governor while inquiring what was the pre September 2014 Interest Rate structure and he basically looked at my sheet and he took the sheet to his hand ....."*.

Mr. Mahendran had then looked at the Bid Received Sheet and asked what the Weighted Average Yield Rate was in the previous 30-year Treasury Bond Auction held prior to September 2014 – ie: on 27<sup>th</sup> May 2014. The witness and his colleagues in the PDD had informed Mr. Mahendran that, it was 11.75 (Net of Tax).

The witness stated that, the names of the Bidders were stated next to their Bids on the Bids Received Sheet marked **"C39B4"**.

In response to questions asked by the Commission of Inquiry, the witness said that, therefore, Mr. Mahendran would have had the opportunity of seeing the names of the Bidders.

Dr. Aazim went on to say that, the practice of disclosing the names of the Bidders on Bids Received Sheets was stopped in the latter part of 2015.

Mr. Mahendran had then asked how much could be accepted at the present Auction on the basis that the Weighted Average Yield Rate (Net of Tax) would end up at 11.75. The witness and his colleagues in the PDD had informed Mr. Mahendran that, it would amount to about Rs.10 billion.

The witness said that, thereupon, Mr. Mahendran *"..... was mentioning that we should be accepting at that level"*. The witness said that he had *"maintained"* his previously expressed concern that, accepting more than the sum of Rs.2.608 billion recommended by the PDD would result in an increase in Interest Rates. The witness stated *"I still maintained even at that level going beyond the two point six billion that we recommended to the Tender Board would make Interest Rate structure elevated and the term structure of Interest Rates for government securities would increase in comparison to what it was post September 2014"*. In this regard, the witness has later mentioned that,



Interest Rates had “*trended down*” after September 2014. He added that, the Interest Rates which prevailed in February 2015 were about 150 Basis Points [1.5%] less than the Interest Rates which prevailed prior to September 2014.

Dr. Aazim said that, nevertheless, Mr. Mahendran was “*.....still in favour of accepting everything required from the auction itself.*” – ie: to fund the entire fund requirement for 02<sup>nd</sup> March 2015 by accepting Bids at this Treasury Bond Auction.

Dr. Aazim said that he then addressed his concerns to the two Deputy Governors who were present and said “*then I put question to my Deputy Governors asking DG’s what’s your view on accepting high volume?*” and “*I asked their observation straight away.*”. The witness said, with regard to the response of the two Deputy Governors, “*They remained silent and Dr. Weerasinghe was trying to kind of see what would be the level around Five Billion like and he just kept quiet. Nothing else came out from Deputy Governors.*”.

Dr. Aazim went on to say that, Mr. Mahendran subsequently “*..... also mentioned at this point that we could move away from direct placements methodology .....*”.

Mr. Mahendran had then turned towards the Superintendent of Public Debt while the witness was continuing to repeat his concerns regarding the adverse effects of accepting more than the sum of Rs.2.608 billion recommended by the PDD. The witness said that, the Superintendent of Public Debt “*.....was with me all the time on that account....*” but that he could not recall any person [other than the witness] voicing similar concerns after the Superintendent of Public Debt had earlier advised against accepting the entirety of the Bids received. He specifically said that he could not recall Ms. Mutugala or Ms. Fernando saying anything. However, the witness believed that they all agreed with his concerns.

Thereafter, the witness said that, his recollection was that, Mr. Mahendran then instructed the Superintendent of Public Debt to accept Bids to a value of approximately Rs.10 billion. In this regard, Dr. Aazim’s evidence was that “*..... my memory serves the fact that he was instructing Superintendent to accept 10 plus from the auction itself.....*”. The witness went on to say. “*..... it is a very clear instruction.*”.

The Superintendent of Public Debt and the witness and other officers of the PDD had then said that “*.....we will take this message to the Tender Board.*”.

Mr. Mahendran and the two Deputy Governors had then left the PDD.



- 31] The Superintendent of Public Debt had then made a note at the bottom of the Option Sheet marked “**C39B5**” to record the aforesaid instruction given by Mr. Mahendran.
- 32] The PDD then prepared a “*fresh*” Option Sheet to reflect the aforesaid instruction given by Mr. Mahendran. This “*fresh*” Option Sheet was marked “**C39B6**”. Thus, in the “*fresh*” Option Sheet, PDD recommended that Bids to the value of Rs.10.058 billion be accepted. The witness said that, this was based on the “*Governor’s instructions*”.

The witness said that, accepting Bids to this value resulted in 26 Bids up to a Yield Rate of 12.50 being accepted and a Weighted Average Yield Rate [Net of Tax] of 11.73.

- 33] The officers of the PDD who were members of the Tender Board had then proceeded to the meeting of the Tender Board, taking with the “*fresh*” Option Sheet marked “**C39B6**” which recommended that Bids to the value of Rs. 10.058 billion be accepted.
- 34] Dr. Aazim stated that, they took only the “*fresh*” Option Sheet marked “**C39B6**” and that they did not take with them the Option Sheet marked “**C39B5**” prepared by the PDD earlier which had recommended that Bids to a value of Rs. 2.608 billion be accepted. The witness stated, “*We didn’t submit this to the Tender Board.*”. He added, that the Option Sheet marked “**C39B5**” prepared earlier by the PDD was “*Not tabled at the discussion.*” of the Tender Board.
- 35] The Tender Board comprised of Mr. P. Samarasiri - Deputy Governor [Chairman], Mr. S.S. Ratnayaka - Assistant Governor, Mr. C.P.A. Karunatileke - Assistant Governor, Mr. P.W.D.N.R. Rodrigo - Director, Domestic Operations Department, Ms. S. Gunaratne - Director, Economic Research, the Superintendent of Public Debt, Ms. Mutugala and the witness [Secretary]. All these officers participated in the meeting of the Tender Board held on 27<sup>th</sup> February 2015.
- 36] Dr. Aazim stated that, after the Superintendent of Public Debt tabled the “*fresh*” Option Sheet marked “**C39B6**”, she “*..... very clearly stated that the Governor’s presence with two Deputy Governor’s and instructions to raise 10 plus Billion from the auction and the Department’s recommendation at that time was 2.6 billion and she very clearly stated this.*” .

The witness stated that, all the members of the Tender Board expressed concerns that, accepting Bids to the value of Rs.10.058 billion was inadvisable and that, “*different market environments*” made it “*not possible*” to compare the

prevailing Interest Rates with the Interest Rates which prevailed prior to September 2014.

Dr. Aazim said that, then, the *“..... members suggested that we should go and meet the Governor to clarify his position and inquired from the Chairman, we should go and speak to the Governor with respect to his instruction.”*

The witness said that, Mr. Samarasiri - Deputy Governor, who was chairing the meeting of the Tender Board was also concerned about accepting Bids to the value of Rs.10.058 billion and that Mr. Samarasiri also wished to meet Mr. Mahendran *“to clarify this point with the Governor.”* and added, with regard to Mr. Samarasiri, *“He was concerned to clarify the Governor’s instruction and also the entire Tender Board at that time and wanted to clarify this position with Governor.”*

When the Commission of Inquiry asked the witness why the members of the Tender Board wished to meet Mr. Mahendran, he replied, *“To clarify on what basis that a higher volume is justified to accept.”* When the Commission of Inquiry asked the witness whether the members of the Tender Board wished to meet Mr. Mahendran in an attempt to change his mind with regard to the amount of Bids to be accepted, he replied, *“I mean it didn’t happen, but it was a suggestion.”*

Thereupon, Mr. Samarasiri had used the Intercom in the Conference Room where the meeting was being held, to find out whether Mr. Mahendran was in his office. Mr. Samarasiri had been informed that, Mr. Mahendran was not in his office.

Mr. Samarasiri had then gone out of the Conference Room and had come back, about 4 or 5 minutes later, and said that he telephoned Mr. Mahendran and that he had sought to clarify the decision to accept Bids to the value of Rs.10.058 billion.

Dr. Aazim said that, Mr. Samarasiri then *“ ..... mentioned the Governor’s reasoning in terms of additional fund requirement of the Government and the bidding in terms of the volumes received as reasons for accommodating a higher volume and this was subsequently minuted in the minute Sheet of the Tender Board.”*

Dr. Aazim went on to say that, his impression was that, Mr. Samarasiri *“ ..... went with the Governor’s recommendation. And then he came back and said we have to accept that amount which had been said and told beforehand to the Superintendent and Public Debt.”*

Thereafter, the Minutes of the meeting of the Tender Board were prepared setting out the reasons mentioned by Mr. Samarasiri [as having been conveyed to him by Mr. Mahendran] and deciding that, Bids to the value of Rs.10.058 billion, be accepted. These Minutes were marked “**C39B8**”. Dr. Aazim said that these Minutes were prepared by Mr. Samarasiri and the officers of the PDD who participated in the meeting of the Tender Board. The witness said this was done within the Conference Room where the meeting was held.

Dr. Aazim said that, the Tender Board recorded this decision “*with reluctance*” and only in view of Mr. Mahendran’s “*instruction*” that Bids to the value of Rs.10.058 billion should be accepted and Mr. Samarasiri’s “*approval*” of that decision in his capacity as the Chairman of the Tender Board.

37] Dr. Aazim stated that, when the meeting of the Tender Board concluded, Mr. Samarasiri took the Minutes marked “**C39B8**”, which had to be submitted to Mr. Mahendran for his approval of the decision stated therein.

38] At this point, the Commission of Inquiry questioned the witness about the nature of statements made earlier by Mr. Mahendran, at the PDD, with regard to “moving away” from Direct Placements. Dr. Aazim said that he did not regard this statement as being merely a “*casual comment*”. When the Commission of Inquiry then asked the witness whether Mr. Mahendran had given a “*Direction*”, the witness replied, “*He basically suggested.*” and “*He mentioned in the Public (Debt) Department itself that this is the point we can move away from Direct Placements.*”.

When the Commission of Inquiry then asked Dr. Aazim whether he had informed the Tender Board that Mr. Mahendran had given verbal “*instructions to stop Direct Placements*” on 27<sup>th</sup> February 2015, the witness replied in the affirmative.

39] After the meeting of the Tender Board ended, the witness and the other officers of the PDD had proceeded to the PDD and prepared the Press Release notifying the results of the Auction.

40] The document prepared by the PDD setting out the 26 Bids that were accepted was marked “**C39B9**”. The witness agreed that, Perpetual Treasuries Ltd had obtained approximately 50% of the Bids that were accepted.

41] Dr. Aazim said that, the meeting of the Domestic Debt Management Committee to draw up the Domestic Borrowing Programme for the month of March 2015 was held only *after* the meeting of the Tender Board ended. The Borrowing Programme prepared at that meeting was marked “**C39B12**”.

- 42] The Domestic Borrowing Programme marked “**C39B12**” had been forwarded to Mr. Mahendran who had, later, made an endorsement thereon, which was addressed to Mr. Samarasiri [who was then the Deputy Governor overseeing the PDD]. Mr. Samarasiri had then forwarded this document to Mr. S.S. Ratnayaka, [who was then the Assistant Governor overseeing the PDD] and he had forwarded the document to the Superintendent of Public Debt.

Dr. Aazim expressed his view that, in this endorsement, Mr. Mahendran had set out his “*thinking*” and “*.....so it may be a general policy direction probably governor is communicated to the Deputy Governor.*”. When the witness was asked by learned Senior Additional Solicitor General whether the witness considered this endorsement to be an “*order*”, he replied “*I am not calling this as order ....*”.

- 43] When Dr. Aazim was questioned regarding his testimony before the “Pitipana Committee” and the two COPE Investigations and was asked why he did not give evidence on the lines of the evidence he gave before this Commission of Inquiry, he said, that he did not face the type of precise and targeted questioning on specific issues, which he answered at this Commission of Inquiry. The witness said that, when he gave evidence before the “Pitipana Committee” and the two COPE Investigations “*..... I was receiving multiple questions and I don’t remember which question I was responding so (to) but it was like an open discussion kind of a explanation.*”.

- 44] When Dr. Aazim was questioned with regard to a decision to stop Direct Placements in the context of the Medium Term Debt Management Strategies [MTDS] of the CBSL, he said “*That is that (if) you are having a auction based financing means you have to meet the quantum that you wanted to require for a particular period from the auction alone, when you have flexibility in terms of deciding between an auction and a placement, of course you have the flexibility in the event the markets developments are not in line with the expected direction specified in the MTDS or for that matter for that financial year’s borrowing programme that Central Bank would prefer to execute. You have a fall back to raise funds through a Direct Placement arrangement. And also when you have an arrangement like that the offering of securities also become flexible because in the case of placement window you select securities which has certain space in terms of how much already issued. We don’t necessarily look at huge volumes we call it bunching concerns.*” The witness added, “*We can spread it out we can pick securities where you have sufficient space to issue further. So these flexibilities were provided in an environment where you have broader issuance methodology that (than) you are restricting yourself to some extent into a one arrangement of mobilizing funds.*”.

45] When Dr. Aazim was questioned by Mr. Harsha Fernando, Attorney-at-Law, who represented Mr. Samarasiri, with regard to the manner in which Direct Placements were made by the PDD, he said *"It's a process in which demand based. In fact from the time I worked in Public Debt Department from 2008 onwards the placements when the window is open any inquiry by a primary dealer has been entertained in terms of giving the required information"*. Dr. Aazim went on to say that, the process was usually initiated by a Primary Dealer making an inquiry by telephoning the Front Office of the PDD and obtaining a quoted Rate from an officer in the Front Office. When learned counsel asked Dr. Aazim whether a single Rate would be offered to all Primary Dealers or whether different Rates would be offered to different Primary Dealers, he replied, *" But my understand is single rate but then of course there is a concept called volume based inducement if you are just asking 50 million and you are asking 1 billion or 5 billion Probably the approval process you can see in the operation manual itself."* and *"My understanding is volume is a factor when it comes to a very small quantities but still and under normal circumstances everybody get the same rates but if there is an arrangements that has approval from the Assistant Governor, Overseeing Public Debt as well as the Deputy Governor, Overseeing the Public Debt."*

In reply to Questions by learned Counsel, Dr. Aazim said that, the Front Office of the PDD usually only informed State Institutions when the Direct Placement Window is opened. He went on to say that, Primary Dealers are not informed. In reply to another Question as to whether the PDD informs Primary Dealers when the Direct Placement Window is opened, Dr. Aazim said *"Not primary dealers they been kind of where on the basis of demand they have, they probably inquire from the Front office."* He added that, when the Direct Placement Window is opened, the Front Office of the PDD usually informs the EPF, the two State Banks and the National Savings Bank and *"My memory serve right we don't call primary dealers."* He also said that, Primary Dealers will make inquiries with regard to Direct Placements when they *"are interested"* because they have funds to invest. Dr. Aazim went on to reiterate that Direct Placements were made on a *"first come, first server basis"*.

46] When Dr. Aazim was questioned by Mr. Nihal Fernando, PC who represented Perpetual Treasuries Ltd, he said that, on 26<sup>th</sup> February 2015, the PDD had accepted two Direct Placements aggregating to approximately Rs.3.5 billion towards meeting the requirement of raising Rs.13.55 billion on 02<sup>nd</sup> March 2015. The witness acknowledged that, the day of the Treasury Bond Auction - ie: 27<sup>th</sup> February 2015 - was a Friday. Learned President's Counsel, thereupon, suggested to the witness that, in these circumstances and, in view of the witness having earlier stated that, Direct Placements are usually not made on the day of a Treasury Bond Auction, *"There is no time for you to collect private placements."* In reply, Dr. Aazim said *"In fact sir, my experience in the Public*



*Debt Department says raising forty fifty billion within a few hours through direct placement window was also very much feasible.”.*

With regard to the specific requirement of funds on 02<sup>nd</sup> March 2015, Dr. Aazim said that, since approximately Rs. 3.5 billion had been accepted by way of Direct Placements on 26<sup>th</sup> February 2015 and if the sum of Rs. 2.608 billion first recommended by the PDD had been accepted at the Auction, the balance funds amounting to Rs. 7.32 billion could have been raised by way of Direct Placements if the Direct Placements Window was kept open. He said *“In fact on 02<sup>nd</sup> March itself (if) the placement window was available. From my experience sir in terms of the fund raised in the placement arrangement in the past says 7 plus billions are not a volume that a we looked as serious, Sir.”.*

In this regard, the witness stated that, Direct Placements can be accepted on the basis that settlement is to be made on the day of acceptance itself.

**Section 5.5 - Hon. Bandula Gunawardena, MP**

On 07<sup>th</sup> March 2017, Hon. Bandula Gunawardena, MP made a statement, on a TV Channel, that the Members of Parliament who are part of the group identified as the “Joint Opposition” had previously submitted a letter to this Commission of Inquiry requesting that they be given an opportunity to produce a Report and give evidence before this Commission of Inquiry.

Mr. Gunawardena’s statement was factually incorrect since no such letter had been submitted to this Commission of Inquiry as at 07<sup>th</sup> March 2017 despite the Notices published on 09<sup>th</sup> and 10<sup>th</sup> February 2017 calling upon members of the public to submit, on or before 28<sup>th</sup> February 2017, any representations they wish to make to this Commission of Inquiry.

Therefore, immediately upon becoming aware of this factually incorrect statement, this Commission of Inquiry summoned Hon. Bandula Gunawardena, MP to appear before us on 09<sup>th</sup> February 2017, and explain why he made this factually incorrect statement.

When he appeared before us on 09<sup>th</sup> February 2017, Mr. Gunawardena admitted that, his statement was factually incorrect.

A few minutes before Mr. Gunawardena appeared before us - *ie:* at 09.40am on the morning of 09<sup>th</sup> February 2017, which was two days after Mr. Gunawardena made his aforesaid statement - this Commission of Inquiry received a letter which is said to be signed by 26 Members of Parliament. The contents of this letter contain some references to matters which are being inquired into by this Commission of Inquiry.

Therefore, Mr. Gunawardena was asked whether he wished to give evidence, with regard to the matters referred to in that letter, on that day or on a further day. He replied that he would prefer to give evidence on that day and that he would do so on behalf of the Signatories to the aforesaid letter. In addition, Mr. Gunawardena also requested that, this Commission of Inquiry gives an opportunity for Hon. M. Aluthgamage, MP and Hon. Weerakumara Dissanayake, MP to give evidence since they had been members of COPE which had investigated the issue of Treasury Bonds.

Thereafter, Mr. Gunawardena stated that he wished to highlight the following four areas for the consideration of this Commission of Inquiry: (i) the fact that, the Bank of Ceylon is said to have submitted Bids to the aggregate value of Rs.13 billion, on behalf of Perpetual Treasuries Ltd, at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and the issues that arose from those transactions; (ii) alleged irregularities in the dealings between Perpetual Treasuries Ltd and the EPF and also alleged irregularities in the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016; (iii) the alleged loss caused to the economy by the Treasury Bond transactions which are being investigated by this Commission of Inquiry including alleged losses arising by way of damage to the credibility of the CBSL, opportunity costs and the devaluation of the Sri Lanka Rupee etc; and (iv) the high profits made by Perpetual Treasuries Ltd in the Financial Years 2014/2015 and 2015/2015 and the period from 01<sup>st</sup> April 2016 to 30<sup>th</sup> September 2016.

When the Commission of Inquiry pointed out to Mr. Gunawardena that, the alleged losses he claimed in item (iii) above should be substantiated by a detailed Report and the evidence of the author of that Report, he acknowledged these alleged losses were “his opinion” [“මගේ මතයකි”]. Mr. Gunawardena stated that, he could submit a written Report explaining and detailing the alleged losses. However, no such Report has been submitted by Mr. Gunawardena.

**Section 5.6 - Ms. C.M.D.N.K. Seneviratne**

Ms. Seneviratne is presently, the Director of the Information Technology Department of the CBSL.

The relevant evidence of this witness is:

- 1] Ms. Seneviratne served as Superintendent of Public Debt from 09<sup>th</sup> February 2015 to 21<sup>st</sup> September 2015. She had worked in the Statistics Department for 21 years and then, from 2007 onwards, worked as the Deputy Superintendent of the EPF and later as the Additional Superintendent of the EPF until April 2014 when she was appointed the Superintendent of the Currency Department. On 09<sup>th</sup> February 2015, the witness was transferred to the PDD as the Superintendent of Public Debt.



- 2] The witness said that, when she learnt of her transfer to the PDD as the Superintendent of Public Debt, *“Actually, it was a shock for me.”* since she had worked in *“mostly operational”* Departments and she considered the area of work done by the PDD to be *“highly technical”*. She said that she was informed of the transfer by Dr. Nandalal Weerasinghe, who oversaw the Human Resources Department. She said that, Dr. Weerasinghe said the transfer had been a decision taken by Mr. Mahendran.

The witness had then met Mr. Mahendran and said that she does not have any experience in the PDD. She had said that she prefers to continue working in the Currency Department, especially since she finds the work in that Department to be a *“challenging task”*. The witness said that, Mr. Mahendran told her that working in the PDD will be *“another challenge. So you will take time to learn but take your time and take the challenge.”*

Ms. Seneviratne said that, Mr. Dhammika Nanayakkara who was her predecessor as the Superintendent of Public Debt, had, by the month of February 2014, held that post for three years.

- 3] The witness said that, Dr. Aazim, who was then one of the two Additional Superintendents of Public Debt, had extensive knowledge and experience with regard to the PDD and that he was an *“asset”* to the PDD.

The witness said that, about two weeks after she assumed duties as Superintendent of Public Debt, Mr. Mahendran had mentioned to her that, the CBSL must have a *“Succession Plan”* and that Mr. Mahendran was considering promoting Dr. Aazim to the post of Director - Economic Research, in due course.

- 4] Ms. Seneviratne confirmed that she received the Cash Flow Statement marked **“C12A”** from the Treasury Operations Department, on 23<sup>rd</sup> February 2015.

- 5] Ms. Seneviratne said that, on 24<sup>th</sup> February 2015, Mr. Ananda Silva informed her that, the Monetary Board had instructed the PDD to take immediate action to hold Auction of 30-year Treasury Bonds. She said that, she confirmed that instruction with Mr. H.A. Karunaratne, Secretary to the Monetary Board.

- 6] She said that, although this Auction had been then fixed for 27<sup>th</sup> February 2015, the PDD was unable to hold a meeting of the Domestic Debt Management Committee before that because of the inability to obtain the participation of the Director General of the Treasury Operations Department.

- 7] When the Commission of Inquiry asked the witness why the PDD decided to offer only a sum of Rs.1 billion at the Treasury Bond Auction to be held when

the funding requirement on 02<sup>nd</sup> March 2015 was Rs.13.5 billion [less the sum of approximately Rs 3.5 billion which had then been raised by two Direct Placements], Ms. Seneviratne said, *“According to our experience we know we can’t inform the exact volume to investors. When investors know that the Government requirement is really high they will bid at a higher rate then the cost will be too high to the Government, we want to minimize that cost factor.”*

She added that, the Market was used to Treasury Bond Auctions with an offered amount between Rs.1 billion and Rs. 3 billion.

- 8] The witness stated that, after discussions with her senior officers, the expectation of the PDD was that, Bids to *“at least”* the value of about Rs. 5 billion would be received in response to the offered amount of Rs.1 billion.
- 9] When the Commission of Inquiry asked the witness whether, in the months of February and March 2015, the Treasury Operations Department had sent her a Revised Daily Cash Flow Statement or contacted her to advise her of a funding requirement in those months which was over and above the Daily Cash Flow Statements that had been sent to the PDD, she answered in the negative.
- 10] With regard to the statements made by Mr. Mahendran when he visited the PDD at about 10.45 am on 27<sup>th</sup> February 2015, Ms. Seneviratne’s evidence was on similar lines to Dr. Aazim’s narration.

With regard to her understanding of Mr. Mahendran’s statement dealing with Direct Placements, the witness said, *“And he mentioned another point saying that now the Public Debt Department has to conduct market based auction system without using this alternate arrangements like direct placements.”* When learned Additional Solicitor General asked her whether Mr. Mahendran said that from then on, the PDD should not accept Direct Placements, Ms. Seneviratne replied, *“That time he just said. Firmly he didn’t say he said public debt department should start.”*

With regard to Mr. Mahendran’s statement dealing with *“additional funding requirement which had to be met”*, the witness said that, Mr. Mahendran *“indicated”* an amount of Rs.15 billion.

- 11] Ms. Seneviratne said that, on this occasion, Mr. Mahendran spent about 10 minutes in the PDD and that he left the PDD just before the Auction was closed.
- 12] With regard to the Mr. Mahendran’s second visit to the PDD a little before 12.30pm on 27<sup>th</sup> February 2015, Ms. Seneviratne’s evidence was on similar lines to Dr. Aazim’s narration.

With regard to Mr. Mahendran's statement dealing with Direct Placements during this second visit to the PDD, the witness said that, when the officers of the PDD told Mr. Mahendran, that if only the sum of Rs 2.608 billion which had then been recommended by the PDD was accepted, the balance funds required could be raised by way of Direct Placements, Mr. Mahendran replied, "*..... that time he said this is the best time to stop this alternative arrangements like direct placements you can start conducting bond auctions through market based.*". Ms. Seneviratne confirmed that, "*Even then the two Deputy Governors remained silent.*". She later said. "*..... He firmly said you can't do this direct placements hereafter.*".

With regard to Mr. Mahendran's statement dealing with the amount to be accepted at that auction held on 27<sup>th</sup> February 2015, Ms. Seneviratne said, "*Finally he said we can take up to Ten Billion.*". The witness added that, Mr. Mahendran said this after Dr. Aazim had voiced his concerns on about five occasions. She confirmed that, the two Deputy Governors remained silent throughout this. When learned Additional Solicitor General asked her whether Mr. Mahendran had made "*suggestion or a direction*". Ms. Seneviratne replied, "*Its kind of a firm instruction.*". When learned Additional Solicitor General asked her whether Mr. Mahendran had "*..... turned to you and said 'do it' ?*", Ms. Seneviratne replied in the affirmative and again added that, it was a "*Firm instructions.*".

- 13] Ms. Seneviratne confirmed that, the first Option Sheet prepared by the PDD and marked "**C395**" had not been taken by the PDD to the meeting of the Tender Board and that only the second Option Sheet marked "**C396**" had been submitted to the Tender Board.
- 14] With regard to the meeting of the Tender Board, Ms. Seneviratne's evidence was on similar lines to Dr. Aazim's narration. She added that, the members of the Tender Board, including Mr. Samarasiri, were "*shocked*" when she and the other officers of the PDD narrated the events relating to Mr. Mahendran's earlier visits to the PDD and that the members had commented, "*They said no Governor has gone to the Public Debt Department during the auction time.*". In answer to a question by the Commission of Inquiry, whether any member of the Tender Board was in favour of accepting Bids to the value of approximately Rs.10 billion, she said that, the members of the Tender Board were unanimously against that idea.

Ms. Seneviratne said that, when Mr. Samarasiri came back to the Conference Room after telephoning Mr. Mahendran, Mr. Samarasiri had said, "*..... this is a Governor's instructed me to convince the Tender Board to go for this ten billion Rupees.*" She went on to say, the members of the Tender Board "*had*

*long discussions, everybody said no, how can we accept this but finally ..... we had to do something because Governor is our boss.”.*

Ms. Seneviratne said that, thereafter, Mr. Samarasiri “dictated” the Minutes marked “**C39B8**” to Dr. Aazim in the Conference Room.

When the Commission of Inquiry asked why she had signed these Minutes if she had disagreed with the decision stated therein, Ms. Seneviratne said “ ..... *We happened to sign for this because the Governor has instructed that Chairman said this is what the Governor wanted us to do. We were compelled to do that.”.*

- 15] When learned Additional Solicitor General asked Ms. Seneviratne whether there was a “*public outcry against*” the results of the Treasury Bond Auction held on 27<sup>th</sup> February 2015, she replied in the affirmative and added “*We also heard from the newspapers ....*”. However, she went on to say that, no Primary Dealer had made a complaint to the PDD immediately after that Auction. She added that, Primary Dealers raised that issue at a meeting a few weeks later in March 2015.
- 16] Ms. Seneviratne said that, when the PDD checked the records of the Central Depository System, it became apparent that, Bank of Ceylon had submitted several Bids at that Auction on behalf of Perpetual Treasuries Ltd.
- 17] Replying questions from Commission of Inquiry, Ms. Seneviratne said that, if the sum of Rs. 2.608 billion first recommended by the PDD had been accepted and Direct Placements had continued to be used, the PDD could have raised the balance funding requirements for 02<sup>nd</sup> March 2015 on or before that day. In this regard, she said that, the Direct Placement Window could have been opened on 27<sup>th</sup> February 2015 after the Auction was concluded and also that she had been advised that Direct Placements could be made on 02<sup>nd</sup> March 2015 with a Settlement Date which was fixed for the same day. She added that, if these methods failed, the PDD could, as a last resort, arrange to temporarily overdraw the Government’s Account with the Bank of Ceylon or issue Treasury Bills to fund the shortfall.
- 18] When Ms. Seneviratne was shown the documents marked in the “**C39(1)**” and “**C39(2)**” series and was questioned regarding the several Treasury Bond Auctions held during the months of March, April, May, June, July and August 2015 and up to 21<sup>st</sup> September 2015 when she was the Superintendent of Public Debt, the witness said that, these documents accurately reflect the events relating to these Auctions.

When the Commission of Inquiry asked Ms. Seneviratne whether she noticed *“anything unusual in any of those auctions ? In the conduct of those auctions ?”*, she replied in the negative. When she was asked whether any Primary Dealer has made unusual Bids at any of these Auctions, she replied again in the negative.

- 19] The witness produced Extracts from the PDD’s Operations Manual relating to the Front Office of the PDD, marked **“C40”**.
- 20] When Ms. Seneviratne was questioned by Mr. Nihal Fernando, PC who represented Perpetual Treasuries Ltd, with regard to whether there had been any *“impediment”* to raising funds by way of Direct Placements between 23<sup>rd</sup> February 2015 and 27<sup>th</sup> February 2015, she replied, *“We couldn’t get, because Sir, we couldn’t get price approval, from the Deputy Governor. He refused to approve price approval.”*. When the Commission of Inquiry then asked why the Deputy Governor [Mr. Samarasiri] refused to give approval, the witness said, *“We also don’t know. He said `I don’t like this system. I don’t want to approve that. Just hold it.”*”.

However, when learned President’s Counsel showed Ms. Seneviratne the documents at p. 0021 and 0022 [and, we note, also p. 0014 to p.0020] in the Volume marked **“C39(1)”** which indicated that, several Direct Placements had been made after 09<sup>th</sup> February 2015 and had been approved by Mr. Samarasiri, the witness was unable to give a clear explanation as to her previous statement that, Mr. Samarasiri refused to approve Prices for Direct Placements.

- 21] At this point, Mr. Harsha Fernando, Attorney-at-Law, who represented Mr. Samarasiri produced a Yield Rate Sheet marked **“S1”** and stated that, as set out therein, Mr. Samarasiri had not refused to approve Rates for Direct Placements but has only asked the criteria or basis on which the PDD was recommending those Rates and asked the PDD to satisfy him that the Yield Rates they recommended are *“based on intelligible criteria”* if he is to approve PDD’s recommended Rates. Ms. Seneviratne then acknowledged that, Mr. Samarasiri had not refused to grant approval and that, in fact, *“He inquired.”*. She went on to say that she cannot remember whether the PDD had responded to Mr. Samarasiri’s inquiry.
- 22] On 21<sup>st</sup> September 2015, Ms. Seneviratne had been transferred to the post of the Director of the Information Technology Department of the CBSL.

## **Section 5.7**

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## **Mr. T.H.B. Sarathchandra**

Mr. Sarathchandra is presently, the Superintendent of Public Debt.

The relevant evidence of this witness is:

- 1] Mr. Sarathchandra had served in the Payments and Settlements Department, Domestic Operations Department, the PDD [for a period of five months in 2011] as Additional Superintendent of Public Debt, the Statistics Department and the International Operations Department. On 21<sup>st</sup> September 2015, the witness was transferred to the PDD as the Acting Superintendent of Public Debt. On 21<sup>st</sup> March 2016, he was confirmed in the post of Superintendent of Public Debt after a period of 06 months in that office. The witness said, *“That is the policy”* and *“general practice”* is for a Head of a Department to be placed on an “acting” basis for six months before the appointment is confirmed.
- 2] When Mr. Sarathchandra was questioned regarding the several Treasury Bond Auctions held between 21<sup>st</sup> September 2015 and 28<sup>th</sup> February 2015 and was shown the documents relating to these Auctions, he did not say that he saw any unusual occurrence with regard to these Auction.
- 3] Mr. Sarathchandra said that, in 2015 and until September 2016 [when the “Bloomberg System” was introduced in the CBSL], the PDD did not have accurate and ‘real time’ information with regard to the Treasury Bond Yield Rates prevailing in Secondary Market. In this regard, he said, *“..... recent comparable market information is not available. To make an appropriate decision, consequent to non availability of active secondary market.”* and *“At that time, we didn’t have a proper market information for a secondary market transaction. Now we have.”*

Mr. Sarathchandra explained that, until September 2016, the PDD officers would call Primary Dealers and ask what the prevailing Treasury Bond Yield Rates in the Secondary Market were. He said that, the information that was provided by the Primary Dealers in response to such inquiries by the PDD, was not necessarily accurate. In this regard, the witness stated, with regard to the period prior to September 2016. *“ ..... Actually, we were referring to some secondary market rates. Those are actually not real rates. From the middle office of the Public Debt Department, they called primary dealers, everyday, and they ask their quotes for different tenures (tenors). When they provide these quotes, those may be just, not real transactions. They are just offers and bids in the market. But no real transactions. So, that’s why we decided to have this Bloomberg platform to collect this information.”*

- 4] Mr. Sarathchandra confirmed that, when he took over duties as Superintendent of Public Debt and until sometime in 2016, the PDD followed the practice of offering an amount at Treasury Bond Auctions which was less than the amount that was required. He said that, the PDD followed this practice in an attempt to



reduce the cost of raising funds at the Auction. He added that, since then, this practice has been stopped and the PDD tries to limit the amount accepted at a Treasury Bond Auction to the amount that was offered. In this regard, the witness said, *“There is a practice of offering less than the requirement throughout the period since I came there. Because the arrangement was when you offer lower amount, we can have a lower cost, just to reduce the borrowing cost of the Government, we just offered this lower amount and tried to collect higher amount. That was the arrangements was at that time. Now, after a long period of time, now actually, the current practice is different ..... Current practice is, we are always trying to limit the acceptance amounts to aggregated total amount offered.”.*

5] With regard to the Treasury Bond Auctions held on 29<sup>th</sup> February 2016, 10<sup>th</sup> March 2016, 12<sup>th</sup> March 2016 and 17<sup>th</sup> March 2016, which were all held to raise the funds required by the Treasury Operations Department in the month of March 2016, Mr. Sarathchandra said that, an aggregate amount of Rs. 26 billion was raised at all these Treasury Bond Auctions and that, the balance fund requirement was raised by way of Sri Lanka Development Bonds at two Auctions of Sri Lanka Development Bonds

6] Specifically with regard to the Treasury Bond Auction held on 10<sup>th</sup> March 2016, Mr. Sarathchandra was asked why the Tender Board decided to decline the PDD’s recommendation that Bids to an aggregate value of Rs.4.889 billion be accepted and, instead, decided to reject all the Bids at that Auction.

In reply, the witness said that, accepting Bids at that Auction would have resulted in an undesirably high increase in Yield Rates. He added that, it was decided that the required funds would be raised by way of Sri Lanka Development Bonds.

7] Specifically with regard to the Treasury Bond Auction held on 17<sup>th</sup> March 2016, Mr. Sarathchandra was asked why the Tender Board decided to decline to accept any Bids on one ISIN that was offered at the Auction but decided to accept Bids aggregating to Rs. 7.925 billion on the two other ISINs that were offered at that Auction, despite resulting in increases in the Yield Rates in respect of those ISINs, the witness said that, the Tender Board decided to do so because of prevailing pressure on Interest Rates. In this regard, he stated, *“ ..... during this time there was a big pressure on Interest Rates and I can’t exactly remember the discussions we had I think the considering the rates hike of 150 basis points and 50 basis point policy basis rate hikes, I think it must have led to this decision to allow otherwise to take this 1.3 billion always Tender Board is reluctant to accept this 296. But this must be a very special occasion due to that policy rates adjustments.”.* Here too, Mr. Sarathchandra added that,

that the balance amount of the required funds could be raised by way of Sri Lanka Development Bonds.

- 8] With regard to the funds required by the Treasury Operations Department in the month of April 2016, Mr. Sarathchandra said that, although the Treasury Operations Department had earlier said that, a sum of Rs.122.373 billion of this total sum was required on 01<sup>st</sup> April 2016, the Treasury Operations Department had later reduced this to a sum of Rs.105 billion which was required on 01<sup>st</sup> April 2016.

The witness admitted that, this reduction had not been recorded in the CBSL's Borrowing Programme for the month of April 2016.

- 9] The witness stated that, the PDD fixed three Treasury Bond Auctions - to be held on 24<sup>th</sup> March 2016, 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016 - to raise this sum of Rs. 122 billion which was required on 01<sup>st</sup> April 2016.
- 10] With regard to the Treasury Bond Auction held on 24<sup>th</sup> March 2016, Mr. Sarathchandra said that, the aggregate amount offered at that Auction had been Rs.20 billion. He said that, the PDD had recommended that, Bids to an aggregate value of Rs.12.923 billion be accepted even though the Yield Rates at which these Bids were placed were higher than the Yield Rates at comparable Treasury Bond Auctions held before that day.

When the witness was asked why the PDD made that recommendation, he said that he was not at the PDD on 24<sup>th</sup> March 2016 since he was on a Training Programme. However, he said that, the PDD would have made that recommendation since the Government needed a large amount of funds on 01<sup>st</sup> April 2016 and the PDD considered it advisable to raise, at least, a part of that amount on 24<sup>th</sup> March 2016. He also observed that, after an Auction is closed, the PDD has only a short period of time to finalize its recommendations to the Tender Board. In this regard, Mr. Sarathchandra said, *"Because now government needs money they said no way we must have this money. So then department recommendation when they are trying to prepare within we have to decide within 30 minutes. When we see bid sheets it is impossible raise something at a reasonable level so that's why they have tried to raise some amount at least form (from) this amount from the auction ....."* and *"Because we have to find money so we knew the risk going forward is going to be much more difficult, when we reject these things we knew that then burden will be much more at least if we manage something like 10 billion 15 billion that would resolve our problem to a certain extent. So they were desperate that's why they were suggesting this type of things."*

Mr. Sarathchandra said that, the Staff Officers of the PDD who made that recommendation on 24<sup>th</sup> March 2016 were Mrs. Mutugala, Mr. Sunanda Obeysekera and Mr. Padumanapan.

The witness said that, however, the Tender Board had not accepted that recommendation and rejected all the Bids received at the Treasury Bond Auction held on 24<sup>th</sup> March 2016. He said that he was not at this meeting of the Tender Board since he was at the Training Programme. However, he said that the Tender Board would have reached that decision because, they were of the view that, since the Yield Rates at which Bids had been made at this Auction were undesirably high, a rejection of all these Bids would have the effect of compelling Primary Dealers to submit more competitive Bids at relatively lower Yield Rates at the next two Auctions which were due to be held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016. In this regard, the witness said, “..... *What happens is if we accept these high levels ..... Next auction they bids start from that level, so then again there is a chain effect to the when there is a rising trend in Interest Rate this happens auction to auction they jump by big amounts. So if we accept at that 24<sup>th</sup> auction these increases are suggested by Public Debt Department that’s what Tender Board is mentioning it will affect the next auction and they think there will be much more competition at the next auctions and that might help to reduce the cost.*”. Mr. Sarathchandra added, “*Our experience tells us when we reject also they bring down rates at the next auction.*”.

The witness went on to say that, the Tender Board had also been of the view that, since there was a large value of Treasury Bonds due to mature for payment on 01<sup>st</sup> April 2016, the market would have high liquidity on that day which, in turn, would impel Primary Dealers to submit more competitive Bids at relatively lower Yield Rates at the next two Auctions which were due to be held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

When learned Senior State Counsel asked the witness whether “*the Tender Board was of the view that raising funds from this auction is not advisable and consideration of raising total funding requirements from the next auction could be more prudent*”, the witness replied in the affirmative.

When the Commission of Inquiry asked Mr. Sarathchandra “*Do you agree with this conclusion ?*” and inquired whether “*You think the Tender Board took the correct decision ?*”, he again answered in the affirmative to both questions. He added that, the “..... *Tender Board consists of people who are with better I mean expertise*” than the officers of the PDD.

- 11] With regard to the Treasury Bond Auction held on 29<sup>th</sup> March 2016 Mr. Sarathchandra said that, the aggregate amount offered at that Auction had been Rs.40 billion. He said that, the PDD had recommended that, Bids to an

aggregate value of Rs. 77.732 billion be accepted. He said that, although the recommendation did entail accepting Bids at relatively higher Yield Rates, the overall effects of the increase in the Weighted Average Yield Rates at which Bids would be accepted, was relatively advantageous to the CBSL and to the Government, since the Government needed a large sum of money on 01<sup>st</sup> April 2016. Mr. Sarathchandra said that, the Staff Officers of the PDD who made that recommendation on 24<sup>th</sup> March 2016 were himself, Mrs. Mutugala, Mr. Sunanda Obeysekera and Mr. Padumanapan. In response to questions from the Commission of Inquiry, Mr. Sarathchandra said that, these officers of the PDD did not know the names of the Bidders at the time they made this recommendation since the practice of including the names of the Bidders in the Bids Received Sheet had been stopped well before the month of March 2016.

Mr. Sarathchandra said that, the Tender Board had accepted this recommendation and that, consequently, Bids to an aggregate value of Rs. 77.732 billion had been accepted at the Treasury Bond Auction held on 29<sup>th</sup> March 2016.

It was evident that, the Tender Board also could not know the names of the Bidders at the time they decided the amount of Bids that are to be accepted.

- 12] Mr. Sarathchandra said that, when the details of the Bids accepted at the Treasury Bond Auction held on 29<sup>th</sup> March 2016 became available [after the Tender Board meeting] later on that afternoon, it was evident that, Perpetual Treasuries Ltd had succeeded in obtaining 0.5% of the Bids that were accepted for the first ISIN, 39% of the Bids that were accepted for the second ISIN that were accepted, 45% of the Bids that were accepted for the third ISIN and 36% of the Bids that were accepted for the fourth ISIN.

Mr. Sarathchandra went on to say that, Perpetual Treasuries Ltd had submitted Bids for an aggregate value of Rs. 32.56 billion at the Auction held on 29<sup>th</sup> March 2016 and that, Bids to an aggregate value of Rs. 31.41 billion had been accepted.

- 13] The witness said that, although Bids to a value of Rs. 77.732 billion had been accepted at the Auction held on 29<sup>th</sup> March 2016, the “Cash Value” of these Bids was approximately Rs.59 billion. Therefore, more funds were required to meet the sum of Rs.105 billion needed on 01<sup>st</sup> April 2016.
- 14] With regard to the Treasury Bond Auction held on 31<sup>st</sup> March 2016 Mr. Sarathchandra said that, the aggregate amount offered at that Auction had been Rs.25 billion. He said that, the PDD had recommended that, Bids to an aggregate value of Rs. 28.35 billion be accepted.

Mr. Sarathchandra said that, the Tender Board had accepted this recommendation and that, consequently, Bids to an aggregate value of Rs.28.35 billion had been accepted at the Treasury Bond Auction held on 31<sup>st</sup> March 2016.

- 15] The witness said that, as a result of the decisions taken at the Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016, a large part of the sum of Rs.105 billion needed on 01<sup>st</sup> April 2016 had been raised.
- 16] Mr. Sarathchandra said that, Yield Rates had dropped since March 2016 and observed that this validated the decisions taken at the Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.
- 17] In response to questions from the Commission of Inquiry, Mr. Sarathchandra said that, accepting Bids at high Yield Rates for Treasury Bonds with shorter term Tenors is less prudent because the Yield Rates prevailing for Treasury Bonds with shorter term Tenors have an exaggerated impact on the Yield Rates in respect Treasury Bonds with longer term Tenors. In this regard, the witness said that, for example, even when the CBSL changes the Overnight Rate, *“But entire curve shift so normal pattern is when short term fluctuate less long term fluctuate more. So if we move by 50 basis points overnight rate it could be a 100 basis or a 50 basis point from the longer end. I mean as an example this happens not only in Sri Lanka, even in US this happens. Very small adjustments like 25 basis points, we shift the curve long terms curve .....*”. When the Commission of Inquiry asked Mr. Sarathchandra whether small adjustments in the Yield Rates applicable to short term Tenors can have *“a magnified effect”* on the Yield Rates applicable to long term Tenors, he agreed.

In reply to questions asked by learned Senior State Counsel, Mr. Sarathchandra said that, while Treasury Bill Rates are usually stable, the Yield Rates applicable to Treasury Bonds with medium term Tenors [between 5 years to 10 years] have higher *“volatility”* than the Yield Rates applicable to Treasury Bonds with short term Tenors [less than 5 years]. He went on to say, *“If you go to 10 years to 30 years that the long end we call it long term that most volatilities even higher than that.”*

Mr. Sarathchandra observed that, investing in Treasury Bonds with long term Tenors can be a *“high risk”* exercise which can bring *“..... higher profit, I mean capital gains. At the same time if it goes against you, you will end up with huge losses. So that risk is there. So they have to think about their risk and take the position.”* In contrast, he said with regard to investing in Treasury Bonds with short term Tenors, *“So short term you may have fair amount of profit and you may end up with even if it moves against your ... position , you will end up with a some manageable level of losses.”*

The witness added that, in view of these risks, most Commercial Banks usually confine their investments to Treasury Bonds with Tenors of less than 6 years while some “stand alone” Primary Dealers “prefer to go for long end. Because must be that they want to gain capital gains.”.

- 18] In response to questions from the Commission of Inquiry, Mr. Sarathchandra said that, the CBSL often faced the difficulty of having to raise a very large quantum of funds - for example, the sum of Rs.105 billion required on 01<sup>st</sup> April 2016 - due to the undesirable phenomenon of “bunching”. He explained that, this term of “bunching” is used to describe situations where a high value of Treasury Bonds mature and fall due for settlement on a single day or within a short period of time. He pointed out that, the CBSL finds it difficult to raise the high quantum of funds which are required when the CBSL encounters this type of situation.

When the Commission of Inquiry asked Mr. Sarathchandra what caused this undesirable phenomenon of “bunching”, the witness said that, the CBSL faces this difficulty because of borrowings made in the years 2010, 2011 and 2012. He said, “..... somewhere in 2010, 2011 and 2012 that period they have issued a lot of bonds.”.

- 19] In reply to questions asked by Mr. Harsha Fernando, Attorney-at-Law, who represented Mr. Samarasiri, Mr. Sarathchandra said that, in his view, there was transparency in the decision-making process of the Tender Board [under the Chairmanship of Mr. Samarasiri] during the period the witness served as the Superintendent of Public Debt. The witness added that, the decision-making process of the Tender Board improved during this period.
- 20] In reply to questions by Mr. Nihal Fernando, PC who represented Perpetual Treasuries Ltd, Mr. Sarathchandra agreed that, in February 2016, Sri Lanka’s Credit Rating was downgraded from BB- to B+.

**Section 5.8** - **Ms. U.L. Mutugala**

Ms. U.L. Mutugala served as the Additional Superintendent of Public Debt.

The relevant evidence of this witness is:

- 1] Ms. U.L. Mutugala served as the Additional Superintendent of the Public Debt Department from the 01<sup>st</sup> January 2012, until she was transferred to the Bank Supervision Department sometime in 2016.



- 2] With regard to the events which took place and statements made when Mr. Mahendran visited the PDD on 27<sup>th</sup> February 2017, Ms. Mutugala's evidence was on the same lines as Dr. Aazim's and Ms. Seneviratne's narrations.
- 3] Ms. Mutugala also said that during her tenure in the PDD, no Governor or Deputy Governor has come into the PDD during an Auction.
- 4] Ms. Mutugala said that Ms. M.S.M.P. Fernando, who had been the Head of the Front Office in 2015, had migrated to another country sometime in 2016 and was not in Sri Lanka.
- 5] Ms. Mutugala said that, after Mr. Mahendran had stated that the PDD should accept approximately Rs. 10 billion at the Auction and, thereby, obtain a Weighted Average Yield Rate which was similar to that which prevailed prior to September 2014 and before he left the PDD, Mr. Mahendran, "*..... told SPD to do it.*". In response to a question from the Commission of Inquiry as to what was meant by the words "*do it*", she replied "*That is to go for 10 billion.*". In response to a further question by the Commission of Inquiry as to whether Mr. Mahendran used the precise words "*do it*", Ms. Mutugala replied in the affirmative. When she was asked whether this was in the nature of an "*order*" or a "*request*", she replied "*I can't say it's an order. He just said do it*" and added that it was "*an instruction*" and not "*a request.*".
- 6] Ms. Mutugala's evidence regarding the Tender Board meeting was on the same lines as Dr. Aazim's and Ms. Seneviratne's narrations. The witness also said that, when the Tender Board discussed the Bids, Mr. Samarasiri was not in favour of accepting Rs. 10.068 billion.
- 7] Ms. Mutugala said that, when the results of the Auction were known, the "*Market was not happy with that decision.*". She added that, normally the PDD accepted "*two times or three times*" the amount offered at a Treasury Bond Auction.
- 8] Ms. Mutugala stated that, in her view, accepting Bids to the value of Rs. 10.068 billion resulted in "*..... some bids that were considered dummy bids by the bidders were also accepted.*".
- 9] The witness stated that as a result of these complaints, Mr. Samarasiri called a meeting of the Chief Executive Officers of the Primary Dealers. That meeting was chaired by Mr. Samarasiri. The Finance Minister had also attended that meeting. The witness stated that it was not usual for a Finance Minister to attend such meetings.

- 10] Ms. Mutugala's evidence concerning the Treasury Bond Auctions held on 24<sup>th</sup> March 2016, 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016, was on the same lines as Mr. Sarathchandra's narration. Ms. Mutugala did not refer to the other Auctions held in March 2016.
- 11] Ms. Mutugala's evidence regarding the pattern of Direct Placements prior to 27<sup>th</sup> February 2015, was on the same lines as Dr. Aazim's evidence.
- 12] In reply to questions asked by Mr. Harsha Fernando, Attorney-at-Law, who represented Mr. Samarasiri, Ms. Mutugala went on to say that, the PDD cannot accept direct placements at Yield Rates outside the range approved by the Superintendent.
- 13] The witness added that, whenever a Direct Placement was made by the PDD, approval was subsequently sought from the Assistant Governor and Deputy Governor. In response to a question from the Commission of Inquiry, she admitted that such approval is obtained "*after the event.*".

**Section 5.9** - **Mr. N.W.G.R.D. Nanayakkara**

Mr. Nanayakkara was the Superintendent of the Public Debt Department prior to Ms. Seneviratne.

The relevant evidence of this witness is:

- 1] On 01<sup>st</sup> January 2012, the witness was appointed the Acting Superintendent of Public Debt and he was confirmed in the post of Superintendent of Public Debt after a period of 06 months. On 06<sup>th</sup> February 2015, he was transferred from the PDD to the Financial Sector Research Department.
- 2] Mr. Nanayakkara said that when he commenced his tenure in the PDD, a representative of the Treasury usually participated in the Domestic Debt Management Committee. However, from sometime in 2013 or early 2014, the representative from the Ministry of Finance stopped attending meetings of the DDMC.
- 3] Mr. Nanayakkara confirmed that, from the years 2011 onwards the PDD had followed the practice of, at the end of each year, reserving space for the publication of a Notice in the Government Gazette bearing the date 01<sup>st</sup> January of the next year. Thereafter, the PDD would provide the Notice setting out details of the Treasury Bonds issued during that next year, to the Government Printers Department, at some time during the year after that. The witness also confirmed that, although the Notice which is published bearing the date 01<sup>st</sup> of a year, states as its signatory, the Minister of Finance who held office on that

date, the Ministry of Finance does not play any part in the drafting or publication of that Notice. That function is carried out by the PDD only.

- 4] Mr. Nanayakkara produced, marked “**C52**”, Summaries of all Treasury Bond Auctions conducted during the period from January 2014 to April 2016.
- 5] Mr. Nanayakkara said that, during his tenure in the PDD, a Governor of the CBSL had not visited the PDD during an Auction.
- 6] The witness stated that, as set out in the Memo dated 20<sup>th</sup> September 2012 which was marked “**C52A**” and is at the last page of “**C52**”, the PDD was required to apply the Weighted Average Yield Rate at the most recent Auction of Treasury Bonds of the same or similar Tenor, when the PDD accepted Direct Placements of Treasury Bonds.

However, if the most Auction of Treasury Bonds of the same or similar Tenor had been held more than two weeks prior to the acceptance of a Direct Placement, the PDD decides on the Yield Rate to be used, subject to obtaining the approval of the Deputy Governor.

The witness stated that the quantum of Direct Placements to be made in the month, was not decided by the Tender Board.

- 7] The witness stated that as set out in the document marked “**C54**”, Direct Placements accounted for 80.2% of Treasury Bond issuances in the year 2013 and Auctions accounted for 19.8% of the Treasury Bond issuances in that year. The witness stated that as set out in the same document, Direct Placements accounted for 96.8% of Treasury Bond issuances in the year 2014 and Auctions accounted for 3.2% of the Treasury Bond issuances in that year. During the months of January and February 2015, Direct Placements amounted to 95.9% and Auctions accounted to 4.1%
- 8] The witness stated that during his tenure at the PDD, no Primary Dealer had made any complaint regarding Direct Placements.
- 9] When learned Deputy Solicitor General suggested to Mr. Nanayakkara that, although p. 8 of the Extract of the Operations Manual of the PDD marked “**C40**” required that, as much funds as possible should be raised through Auctions, the practice followed by the PDD of raising most of the funds required by way of Direct Placements, did not conform with that stipulation in the Operations Manual. The witness disagreed and said, that the Operations Manual required the PDD to raise as much funds as possible through Auctions and that in his view, if large amounts were offered by way of Auctions, it would “*over load the*

*market with anything beyond what the Primary Dealers required” and that doing so would have “the negative consequence” of increasing Yield Rates.*

- 10] With regard to the manner of accepting Direct Placements, the witness said that, the PDD called only the EPF and other “Captive Sources” when the PDD wished to accept Direct Placements. He said that the PDD did not call Primary Dealers. However, he added that Primary Dealers would often call the PDD after an Auction and make inquiries with regard to Direct Placements since they knew that it was likely that the PDD would be accepting Direct Placements at those times. Mr. Nanayakkara also stated that the Primary Dealers would call the PDD whenever a Primary Dealer had funds to invest and wished to make Direct Placements. In this connection, Mr. Nanayakkara said that the PDD usually accepted Direct Placements on the days just after a Treasury Bond Auction.
- 11] In response to a Question by learned Deputy Solicitor General, the witness agreed that there were instances where the PDD accepted Direct Placements on days that were not related to Treasury Bond Auctions.
- 12] With regard to the Yield Rates offered by the PDD when accepting Direct Placements, the witness stated *“Your Honour the rate sheet contains the approved yield rates and the treasury bond series that are on offer and also the maturity date of the bond and reference to the secondary market yield rates and also an approval sought from the Deputy Governor for volume based inducements as a now generally the yield rates are given in the yield rate sheet and then also we seek if necessary an approval from the Deputy Governor to offer few basis points more when the investors comes in big volumes your Honour.”.*
- 13] The witness stated that, prior to his Memo dated 20<sup>th</sup> September 2012 marked **“C52A”**, Yield Rates were decided by the Front Office of the PDD in consultation with the Superintendent of the PDD. The requirement of obtaining approval of Yield Rates from the Deputy Governor, was commenced after the witness sent the aforesaid Memo dated 20<sup>th</sup> September 2012.
- 14] The witness produced, marked **“C55”**, the documents relating to the Application made by Perpetual Treasuries Ltd to obtain a Primary Dealer’s License and the granting of that Approval. The witness stated that the process by which Perpetual Treasuries Ltd submitted this Application commenced on 17<sup>th</sup> October 2012 as set out in the document marked **“C55A”**. As set out in the document marked **“C55J”**, Perpetual Treasuries Ltd was appointed as a Primary Dealer on 01<sup>st</sup> October 2013.

- 15] In response to a question by the Commission of Inquiry as to whether it was appropriate for a member of the Monetary Board to have a close relationship with a Director of a Primary Dealer Company, the witness said that he did not think it was appropriate.

In response to a further question by the Commission of Inquiry as to whether it was appropriate for a member of the Monetary Board to have a close relationship with a Director of a Holding Company which owned 100% of the shares in a Primary Dealer Company, the witness answered that *“there could be a potential conflict of interest”* and *“it is not a good practice.”*

- 16] With regard to the Yield Rates quoted by Primary Dealers in the Secondary Market, the witness stated that the Yield Rates quoted by Primary Dealers were sometimes *“unrealistic,”* especially where the Primary Dealers did not wish to enter into Transactions. He also agreed that [prior to the introduction of the Bloomberg System in late 2016] there was no accurate information with regard to the actual Yield Rates at which Transactions on Treasury Bonds were done in the Secondary Market, since Primary Dealers only submitted Two-Way Quotes to either buy or sell various Tenors of Treasury Bonds. In this regard the witness said that *“there’s a huge asymmetry as for the information is concerned.”*

- 17] In response to questions asked by the Commission of Inquiry, the witness stated that when a Treasury Bond falls due for repayment at maturity, the funds required to make that payment are raised by drawing on the Bank Account maintained by the Treasury and that, where required, that Bank Account is funded by issuing another Treasury Bond or Treasury Bill.

The witness clearly states that payments at maturity of Treasury Bonds are not drawn from the Consolidated Fund and that there is no “Sinking Fund” which has been established to meet these payments of Treasury Bonds, at maturity.

- 18] In response to questions from the Commission with regard to the Article marked **“C58”**, written by Mr. Nivard Cabraal, the witness stated that Mr. Cabraal had admitted that his sister, Ms. Siromi Wickramasinghe was a Director of Perpetual Capital Holdings Ltd from 23<sup>rd</sup> December 2013 up to 09<sup>th</sup> March 2015. He also agreed that in this article, Mr. Cabraal makes no reference to the fact that, during the period referred to in the article, Perpetual Treasuries Ltd had been active in the Treasury Bill Market and also made Direct Placements to a value of approximately Rs. 2 billion.

**Section 5.10**

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**Mr. H.A. Karunaratne**

Mr. Karunaratne is an Assistant Governor of the CBSL and is the Secretary to the Monetary Board.

The relevant evidence of this witness is:

- 1] On 10<sup>th</sup> February 2015, Mr. Karunaratne was appointed the Secretary to the Monetary Board by Mr. Arjuna Mahendran, a short while after Mr. Mahendran assumed duties as the Governor of the CBSL. The witness said that, usually, the Secretary to the Monetary Board is an Assistant Governor who is selected by the Governor to be appointed Secretary to the Monetary Board.
- 2] The witness described his understanding of the powers of the Monetary Board and the powers of the Governor in terms of the Monetary Law Act No. 58 of 1949. He said that, the Quorum for a meeting of the Monetary Board was, three members.

The witness said that, although the Monetary Law Act requires the Monetary Board to meet at least once every two weeks, the Monetary Board sometimes meets more often when there are urgent decisions to be taken. He also said that, it was possible, if necessary, for the Monetary Board to reach a decision within 24 hours, by way of a Circular Resolution.

- 3] Mr. Karunaratne pointed out that, in terms of the Monetary Law Act, the Governor of the CBSL exercises powers which are delegated to him by the Monetary Board. The witness agreed with learned Senior State Counsel when she asked him whether *“The overarching power is vested in the Monetary Board itself?”*.
- 4] Mr. Karunaratne said that, Mr. Nivard Cabraal, who was the previous Governor of the CBSL, resigned from that office on 09<sup>th</sup> January 2015 and that, two appointed Members of the Monetary Board - namely, Mr. Nimal Welgama and Mr. Neil Umagiliya - also resigned on the same day. The other appointed Member of the Monetary Board - namely, Ms. Mano Ramanathan, continued to hold office. Dr. Samaratunga was the *ex officio* member of the Monetary Board after he was appointed Secretary to the Ministry of Finance. Mr. Mahendran was appointed Governor of the CBSL on 23<sup>rd</sup> January 2015. Mr. R.A. Jayatissa



was appointed a Member of the Monetary Board on 10<sup>th</sup> April 2015. Mr. Chrysantha Perera was appointed a Member of the Monetary Board on 24<sup>th</sup> June 2015.

Mr. Mahendran's term of office ended on 30<sup>th</sup> June 2016. Dr. Indrajith Coomaraswamy was appointed Governor of the CBSL on 04<sup>th</sup> July 2016.

After Mr. R.A. Jayatissa's term of office ended, Mr. Nihal Fonseka was appointed a Member of the Monetary Board on 27<sup>th</sup> July 2016.

- 5] The witness said that, the Governor exercises the power of appointing and transferring Heads of Departments, usually after consulting the Deputy Governors. The witness added that, the Assistant Governors are also consulted. He said that, such transfers are not decided by or approved by the Monetary Board.

Mr. Karunaratne said that, there is no stated Transfer Policy which applies to the transfer of Heads of Department. However, Staff Officers are, usually, transferred after holding a post for five years.

- 6] Mr. Karunaratne agreed with learned Senior State Counsel when she asked him whether, soon after Mr. Mahendran assumed office as Governor, there was a "*general rotation or shuffle of heads of department*" in February 2015. The witness went on to say that, in the month of February 2015, there were about 25 Heads of Department at the CBSL and 14 of them had been transferred on 09<sup>th</sup> February 2015.

The witness said that, Mr. Mahendran changed the allocation of responsibilities among the three Deputy Governors. Mr. Karunaratne added that, Mr. Mahendran had also changed the functions of the Assistant Governors.

Mr. Karunaratne agreed with learned Senior Counsel when she asked him whether, in February 2015, there was an "*overall shuffle of positions and responsibilities*". In this connection, when the Commission of Inquiry asked the witness whether "*It was a general shake up of the Central Bank ?*", the witness replied in the affirmative.

- 7] Mr. Karunaratne said that the Senior Officers and Staff "*were not happy*" about the transfers and that they conveyed their dissatisfaction to Deputy Governor, Weerasinghe and Deputy Governor, Silva. The witness said that, some of the Senior Officers, including himself, also met Mr. Mahendran to express their concerns. Mr. Karunaratne went on to say that, in this connection, he, Assistant Governor, S.S. Ratnayaka and two other Senior Officers had also visited Mr. Mahendran, at his official residence, on two occasions.

- 8] Mr. Karunaratne said that, the first meeting of the Monetary Board at which he performed the duties of the Secretary to the Monetary Board, was held on 23<sup>rd</sup> February 2015.
- 9] The witness said that, three Deputy Governors are invited to attend meetings of the Monetary Board. He used the term “*observers*” to describe the role of the Deputy Governors at meetings of the Monetary Board.
- 10] Mr. Karunaratne said that, he adopted the procedure of writing down his Notes of the meeting in his “Board Recording Book” and then drafting the Minutes based on those Notes and his recollection of the events at the meeting. He said that until late 2016, there was no provision made for an audio recording of the proceedings of those meetings.

The witness said that he then sends the draft Minutes prepared by him to the three Deputy Governors. They are required to check the Minutes and send the corrected draft back to the witness. Thereafter, the witness incorporates the changes made by the Deputy Governors and submits the final draft of the Minutes to the Governor, for his approval.

Thereafter, the draft Minutes approved by the Governor are included in the Board Papers which are provided to all members of the Monetary Board a few days before the next meeting.

- 11] Mr. Karunaratne said that, from about mid 2015 onwards, it was found that, meetings of the Monetary Board sometimes spanned from four to five hours because “*There were a lot more deliberations at the Board Meetings*” and “*lengthy discussions*”. He said that, for this reason, a Deputy Secretary to the Monetary Board was appointed on 30<sup>th</sup> October 2015.
- 12] Mr. Karunaratne produced, marked “**C60A**” and “**C60B**”, Minutes of the meetings of the Monetary Board held from 1997 to 2015 and some Minutes of meetings held in 2016.
- 13] Mr. Karunaratne said that, as set out in these Minutes, the Monetary Board had first authorised the issue of Treasury Bonds on 14<sup>th</sup> September 1997. Thereafter, this witness was shown several subsequent Minutes which set out further decisions of the Monetary Board with regard to the issue of Treasury Bonds.

The witness sought to describe the effect of these decisions taken by the Monetary Board. However, we observed that, in some instances, these Minutes contained imprecise phrases which, to use the words of learned Senior State Counsel, could be described as “*loose terminology*”. It was also apparent to us

that, in such instances, the witness was attempting to ascribe his personal interpretation of some of the phrases set out in the Minutes, without the witness having accurate knowledge of the effect of the decisions set out in the Minutes. Further, at times, it was evident that, there may be some doubt about the validity of these interpretations advanced by the witness. For example, on one occasion, the witness interpreted the term “Captive Sources” to include ‘standalone’ Primary Dealers, even though this was patently incorrect.

In these circumstances, we will rely on the Minutes themselves, the related documents and the evidence of some of the other witnesses when determining the decisions taken by the Monetary Board with regard to the issue of Treasury Bonds, instead of the evidence of this witness on these areas.

- 14] The Minutes of the meeting of the Monetary Board held on 23<sup>rd</sup> February 2015 were marked “**C60B1(i)**”.

Mr. Karunaratne said that, he wrote, in his Record Book, notes of his understanding of the proceedings at the meeting. These Notes were marked “**C60B1(ii)**”. Thereafter, he had prepared the draft Minutes and, on 26<sup>th</sup> February 2015, sent the draft Minutes to the three Deputy Governors for their consideration. Dr. Weerasinghe had returned the draft Minutes to the witness, on 27<sup>th</sup> February 2015, without any significant corrections. Mr. Silva had returned the draft Minutes to the witness, on 01<sup>st</sup> March 2015, without any significant corrections. Mr. Samarasiri had returned the draft Minutes to the witness, on 01<sup>st</sup> March 2015, after making extensive significant corrections thereon. The draft Minutes [with corrections noted thereon] returned to Mr. Karunaratne by the three Deputy Governors, were marked “**C60B1(iii)**”, “**C60B1(iv)**” and “**C60B1(v)**” Mr. Karunaratne had incorporated the corrections made and sent the corrected draft Minutes, which were marked “**C60B1(vi)**”, to Mr. Samarasiri on 02<sup>nd</sup> March 2015. Thereafter, Mr. Samarasiri had submitted the corrected draft Minutes marked “**C60B1(vi)**” to Mr. Mahendran, who had approved the corrected draft Minutes marked “**C60B1(vi)**”. The witness had then received these corrected draft Minutes, from Mr. Samarasiri, with an endorsement made by Mr. Samarasiri, “*FNA please if any*”. Thereafter, Mr. Karunaratne had circulated these draft Minutes, as approved by Mr. Mahendran, among the members of the Monetary Board and the Deputy Governors, along with the Board Pack for the next meeting of the Monetary Board.

- 15] In connection with the proceedings at the meeting of the Monetary Board held on 23<sup>rd</sup> February 2015, regarding the issue a 30 year Treasury Bond, Mr. Karunaratne described his understanding of these proceedings saying “*First Governor asked whether we need to issue thirty year bonds .....*” and “*Then the Governor asked whether we can issue thirty-year Rupee Bonds in the*

*domestic market and Mr. Ananda Silva, Deputy Governor, indicated that these bonds are not liquid in the domestic market and therefore it would be offered only for a segment of the market. That was the discussion at the meeting.” and “Then Governor asked whether we can use EPF for this. Then again Mr. Silva indicated that EPF don’t have sufficient funds and after that it was suggested to look into the insurance industry. Then Governor informed to look into this matter during the next week.”.*

When preparing the draft Minutes, the witness had recorded the aforesaid proceedings using the words “..... explore the possibility of issuing thirty year bond to extend the duration further out and to exploit the opportunities provided by the flat U.S. Treasuries spread in the ten to thirty year sector.”.

Deputy Governor Weerasinghe and Deputy Governor Silva had returned the draft Minutes to the witness without making any changes to the aforesaid sentence. When Deputy Governor Samarasiri returned the draft Minutes to the witness, he had stated that, the draft Minutes should be amended with regard to the aforesaid sentence and some other parts of the draft Minutes. In this regard, Mr. Karunaratne stated, “Basically he wanted to word it differently to say Board was of the view that issuing 30 year bond could be favourable at this stage to extend the yield curve and re-profile debt services as there is a good interest shown by foreign investors.”. and “There he wanted me to include that Board instructed “SPD” to conduct thirty year bond auction during the week and arrange to list bond in EUROCLEAR. That urgency was not told to me at the meeting. That is why I said explore the possibility of issuing thirty year bonds.”.

- 16] It is noted that, in this connection, the corrected Minutes of the meeting of the Monetary Board held on 23<sup>rd</sup> February 2015 [which were considered at the next meeting of the Monetary Board held on 06<sup>th</sup> February 2016 and are marked “C60B1 (i)”] state, “The Board was of the view that issuing 30 year Treasury bonds would be favorable at this stage to extend the yield curve and re-profile the debt service as there is good interest shown by foreign investors. Accordingly, the Board instructed the Superintendent of Public Debt to conduct a 30 year Treasury bond auction during the week and arrange to list sovereign bonds in Euro Clear Exchange in the future.”.

Mr. Karunaratne said that, Deputy Governor, Weerasinghe and Deputy Governor, Silva had not disputed the accuracy of the corrected Minutes prior to the meeting of the Monetary Board held on 06<sup>th</sup> February 2016 or at that meeting. However, he went on to say that, by that time, the Auction of 30 Year Treasury Bonds had been held on 27<sup>th</sup> February 2015.

- 17] When the Commission of Inquiry examined Mr. Karunaratne’s handwritten Notes of the meeting held on 23<sup>rd</sup> February 2015 which were recorded in his

Record Book marked “**C60B1(ii)**”, it was evident that, these notes do not contain any record that the Monetary Board discussions were only to “*explore the possibility of issuing thirty year bonds ....*”.

Instead, Mr. Karunaratne has recorded that, Mr. Mahendran first asked “*Should we have T Bond auctions for 30 year*” and that, subsequently, Mr. Mahendran said “*Issue local 30 year bond and see the uptakes.*” and that, Mr. Mahendran further said “*List these Bonds in Euroclear as well*”. In response to a question from learned Senior State Counsel, the witness said that this statement was in respect of listing local Bonds on the EUROCLEAR.

In view of these notes made by Mr. Karunaratne, the Commission of Inquiry asked him “*The word explore was not .... in your draft .... But that is something you submitted in the original draft circulated by you to use the word explore the possibility that was your interpretation*” and “*That was your interpretation. Correct?*”. The witness replied in the affirmative.

When the Commission of Inquiry asked Mr. Karunaratne, “*The only person who went through your draft minutes with a fine-tooth comb was* *Mr. Samarasiri, is that correct?*”, the witness agreed.

- 18] In connection with the proceedings at the meeting of the Monetary Board held on 23<sup>rd</sup> February 2015, regarding the Interest Rates used on the overnight Standing Deposit Facility and overnight Standing Lending Facility, Mr. Karunaratne said that, the Department of Economic Research and the Monetary Policy Committee had submitted a Board Paper to the Monetary Board recommending that: (a) the Two Tier Interest Rate applied on the overnight Standing Deposit Facility, which had been introduced in September 2014 - *ie:* the Two Tier Interest Rate Structure available on the overnight Standing Deposit Facility where the CBSL paid an Interest Rate of 6.5% *per annum* on overnight Deposits placed by a Licensed Commercial Bank or Primary Dealer but paid only a reduced Interest Rate of 5% *per annum* if a Licensed Commercial Bank or Primary Dealer utilized the overnight Standing Deposit Facility more than three times in one month - be removed and that a single Interest Rate of 6% *per annum* be paid on all overnight Deposits made by Licensed Commercial Bank or Primary Dealers irrespective of the frequency of usage of the overnight Standing Deposit Facility; and (b) the Interest Rate of 8% *per annum* charged by the CBSL on overnight Loans disbursed on the overnight Standing Loan Facility, be reduced to 7.5% *per annum*.

Mr. Karunaratne said that, as set out in the Minutes marked “**C60B1(i)**”, the Monetary Board decided, at its meeting held on 23<sup>rd</sup> February 2015, to not make any changes to the aforesaid Interest Rates since it “*was not appropriate at this*

*stage” and that, the Monetary Board decided to “review the position in the next month”.*

- 19] Mr. Karunaratne said that, the Governor is not a member of the Market Operations Committee or Monetary Policy Committee.

He said that, the Market Operations Committee discusses “..... *the daily liquidity of the market and also the volatility of the exchange rate movement. Daily movements.*”. In contrast, he said that, the Monetary Policy Committee “..... *provides the longer term horizon and this committee manages that within parameters.*”.

The witness went on to say that, the Governor does not usually attend meetings of either Committee and that, in his experience, he has not known of a Governor attending a meeting of either Committee.

- 20] Mr. Karunaratne said that, in February 2015, he was a member of the Market Operations Committee. He said the Committee meets daily.

When learned Senior State Counsel asked Mr. Karunaratne what the objects of the Market Operations Committee are, he said “*This is mainly to manage short term Interest Rate and also the rupee liquidity and exchange rate daily movements.*”. He went on to observe that, the Market Operations Committee manages Short Term Interest Rates and Liquidity by deciding on the manner of conducting Open Market Operations by way of REPO Auctions and Reverse REPO Auctions. The witness said that the Market Operations Committee manages Short Term Exchange Rates by deciding on Purchases and Sales of Foreign Currency by the CBSL.

The witness said that, as set out in the Terms of Reference of the Market Operations Committee, which were marked “**C60B2**”, this Committee is chaired by the Assistant Governor in charge of Economic Research. However, in February 2015, this Committee was being chaired by Deputy Governor Weerasinghe, as “*a working arrangement*”, because the Assistant Governor in charge of Economic Research had recently taken over those responsibilities.

- 21] The witness said that, the Market Operations Committee met, as usual, at 9 am on 27<sup>th</sup> February 2015, in a Conference Room on the 15<sup>th</sup> Floor of the CBSL building.

Just as the meeting was about to start, Mr. Mahendran had entered the room. He had spoken with Deputy Governor Weerasinghe and had asked about “.... *the meeting details, TOR and other activities,*”. Deputy Governor, Weerasinghe had answered with a brief explanation.



Mr. Karunaratne said that, *“Then Governor wanted to discuss on Interest Rate movements.”* and *“Governor asked whether the current Interest Rates are representing the correct situation and then he instructed to issue a circular changing the Standing Deposit two tier system.”*, by abolishing the Two-Tier System of the overnight Standing Deposit Facility and applying only the standard Rate of 6.5% *per annum* on all overnight Deposits, irrespective of usage.

The witness also said that, in this connection, Mr. Mahendran had said *“Send the Interest Rate up”*. When learned Senior State Counsel asked Mr. Karunaratne whether he knew the rationale which could have led Mr. Mahendran to state that Interest Rates should be moved upwards, the witness said that, Mr. Mahendran had mentioned that, keeping Interest Rates artificially low, was not appropriate because that will not reflect the true picture. Mr. Karunaratne also stated that, increasing Interest Rates would help strengthen the Sri Lanka Rupee against the U.S. Dollar and later added that, the value of the Sri Lanka Rupee had been depreciating at that time.

The witness said that, Mr. Mahendran instructed Mr. Rodrigo, Director of the Domestic Operations Department to draft a Circular effecting the aforesaid changes to the Interest Rates paid on the Overnight Standing Deposit Facility.

When learned Senior State Counsel asked Mr. Karunaratne whether Deputy Governor, Weerasinghe or any member of the Market Operations Committee opposed that instruction, he replied *“Nobody was opposed for the view.”*

The witness said Mr. Mahendran had left the room about five minutes after he entered the room.

The Minutes of the meeting of the Market Operations Committee held on 27<sup>th</sup> February 2015, were marked as **“C60B7A”**.

- 22] In answer to questions from the Commission of Inquiry, Mr. Karunaratne said that, at that time there was about Rs. 55 billion of excess Liquidity in the market and that an increase in Interest Rates could *“mop up”* some of that money. He also said that, at that time, the Sri Lanka Rupee was depreciating against the U.S. Dollar.
- 23] Mr. Karunaratne said that, Open Market Operations are conducted by the Domestic Operations Department. He said that, when a REPO Auction is held, the CBSL sells Treasury Bills to the market and, thereby, absorbs some liquidity from the market. When a Reverse REPO Auction is held, the CBSL buys Treasury Bills from the market and, thereby, injects Liquidity into the market.

- 24] Mr. Karunaratne produced the Minutes of the meeting of the Monetary Board held on 06<sup>th</sup> March 2015, marked “**C60B9B(ii)**”.
- 25] Mr. Karunaratne produced the Minutes of the meeting of the Monetary Board held on 17<sup>th</sup> March 2015, marked “**C60B12**”. These Minutes, *inter alia*, record the fact that, Mr. Mahendran was proceeding on leave pending the Inquiry being carried out by the “Pitipana Committee”.
- 26] Mr. Karunaratne produced the Minutes of the meeting of the Monetary Board held on 11<sup>th</sup> April 2015, marked “**C60B13(ii)**”. Mr. Mahendran was on leave at that time. The meeting was chaired by Mr. Samarasiri, who was then the Deputy Governor. These Minutes, *inter alia*, record a decision to reduce the Interest Rate paid on the Overnight Standing Deposit Facility to 6% *per annum* and to reduce the Interest Rate charged on the Overnight Standing Deposit Facility to 7.5% *per annum*.
- 27] Mr. Karunaratne produced the Minutes of the meeting of the Monetary Board held on 12<sup>th</sup> June 2015, marked “**C60B16(ii)**”. The meeting was chaired by Mr. Mahendran who had resumed duties by then. These Minutes, *inter alia*, record that, the Monetary Board considered a recommendation made by the PDD to re-introduce Direct Placements but had taken the view that, the timing was not appropriate to do so. The Monetary Board had decided that, the re-introduction of Direct Placements should be considered again when the market improved further.

The witness said that, Direct Placements had not been re-introduced thereafter.

- 28] Mr. Karunaratne produced the Minutes of the meeting of the Monetary Board held on 26<sup>th</sup> April 2016, marked “**C60B21(i)**”.

He said that, Mr. R.A. Jayatissa and Mr. Chrysantha Perera had expressed concern regarding the conduct of Treasury Bond Auctions in the month of March 2016 and referred to “*public concern*” regarding these Auctions. They had requested a Report to be submitted in this connection. He said that, Mr. Mahendran instructed the PDD to provide a detailed Report to be considered at the next meeting of the Monetary Board and had scheduled a special meeting of the Monetary Board to be held for this purpose.

The witness added that, Mr. R.A. Jayatissa and Mr. Chrysantha Perera had recommended the introduction of Pre-Bid Meetings.

- 29] Mr. Karunaratne produced the Minutes of the meeting of the Monetary Board held on 10<sup>th</sup> May 2016, marked “**C60B22(ii)**”.

He said that, the Report prepared by the PDD, which was marked “**C60B22(i)**”, was considered by the Monetary Board and that the explanations given therein by the PDD were accepted by the members of the Monetary Board. It had also been decided by the Monetary Board that, a Press Release should be issued in this connection.

The witness added that, the aforesaid Report prepared by the PDD did not state the names of the Primary Dealers who had placed Bids at the Auctions. Instead, they had been identified by the use of an initial. The witness said that, when a suggestion was made that, the names of the Primary Dealers should be stated, Mr. Mahendran had commented that “*we cannot be micro managing*”. However, it is noted that, these matters are not recorded in the Minutes, which were prepared by Mr. Karunaratne.

It is to be noted that, when the Commission of Inquiry asked the witness whether he knew the identity of the Primary Dealer who had obtained the large amount of Treasury Bonds at those Auctions, the witness claimed that he did not know the identity of that Primary Dealer. When the Commission of Inquiry asked the witness whether he was “*sure*” that he did not know the identity of that Primary Dealer, he said he was sure he did not know. In connection with this evidence of Mr. Karunaratne, it is observed that, it is very unlikely that, given the extent of discussions in the public domain about Perpetual Treasuries Ltd having obtained a large value of Treasury Bonds at those Auctions, the witness was, in fact, unaware that, that Perpetual Treasuries Ltd was the Primary Dealer who had obtained the large amount of Treasury Bonds at those Auctions.

- 30] Mr. Karunaratne produced the Minutes of the meeting of the Monetary Board held on 24<sup>th</sup> June 2016, marked “**C60B25**”. At this meeting, Mr. Mahendran had informed the Monetary Board that his term ends on 30<sup>th</sup> June 2016 and that he will not be seeking re-appointment until the COPE inquiry which was then underway had concluded “*and his name was cleared*”.
- 31] Mr. Karunaratne said that, Dr. Indrajith Coomaraswamy had been appointed Governor of the CBSL on 04<sup>th</sup> July 2016.
- 32] The witness said that, in the meantime, Mr. R.A. Jayatissa’s term of office ended on 24<sup>th</sup> May 2016. By a letter dated 26<sup>th</sup> April 2016 marked “**C60B23(iv)**”, the Ministry of National Policies and Economic Affairs had recommended that, Mr. Nihal Fonseka be appointed a member of the Monetary Board with effect from 25<sup>th</sup> May 2016.
- 33] Mr. Karunaratne said that, on 30<sup>th</sup> June 2016, he received a Circular dated 28<sup>th</sup> June 2016, re-allocating his duties and, in effect, removing him from the post of Secretary to the Monetary Board.

Mr. Karunaratne said that, Mr. Mahendran had taken the decision to remove him from the post of Secretary to the Monetary Board.

In reply to questions from the Commission of Inquiry, Mr. Karunaratne said that he was “*upset*” by Mr. Mahendran’s decision.

Mr. Karunaratne said that, at the request of the officer who had succeeded him as Secretary to the Monetary Board, Dr. Indrajith Coomaraswamy had later re-appointed the witness to the post of Secretary to the Monetary Board.

34] In reply to questions asked by Mr. Nihal Fernando, PC, who appeared for Perpetual Treasuries Ltd, Mr. Karunaratne said that, he had been a member of a “*gathering*” or a “*casual meeting*” of senior officials of the CBSL, at which a decision had been taken to purchase “Greek Bonds” to the value of Euro 30 million. He said that, thereafter, these “Greek Bonds” had been purchased with the approval of the then Governor, Mr. Nivard Cabraal. He said that, this purchase had not been submitted to the Monetary Board for approval before the “Greek Bonds” were purchased. Mr. Karunaratne admitted that, the Auditor General had quantified the loss incurred from this transaction, to be approximately USD 15.6 million.

35] In reply to questions asked by Mr. Harsha Fernando, Attorney-at-Law, who appeared for Mr. Samarasiri, Mr. Karunaratne admitted that, Mr. Samarasiri had “*extensive experience*” in the functions of a Secretary to the Monetary Board, since Mr. Samarasiri had held that office for several years.

Mr. Karunaratne also admitted that, Mr. Samarasiri consistently followed the practice of giving “*extensive feedback*” and making “*extensive comments*” with regard to draft Minutes prepared by the witness.

Mr. Karunaratne acknowledged that, Mr. Samarasiri had made a written complaint regarding the manner in which the witness was maintaining Minutes of the Monetary Board.

36] In reply to questions asked by Mr. Chanaka De Silva, Attorney-at-Law, who appeared for Mr. Mahendran, Mr. Karunaratne admitted that, soon after Mr. Mahendran assumed office as the Governor, he disbanded the Governor’s Secretarial Department which had functioned under Mr. Nivard Cabraal. This resulted in about 30 several Staff Officers and other officers, having to be reassigned duties.

Mr. Karunaratne also admitted that, in 2015, Mr. Mahendran created several new Departments - such as a Regulatory and Compliance Department, a Risk Management Department, a Training Development Department, a Micro

Finance Supervision Department and 09 Regional Offices - all which required Staff Officers and other officers.

Mr. Karunaratne admitted that these changes had a direct bearing on the number of transfers made in 2015.

**Section 5.11** - **Mr. B.D.W.A Silva**

Mr. Silva had served as a Deputy Governor of the CBSL from 2011 until the month of January 2016, when he retired.

The relevant evidence of this witness is:

- 1] From the month of September 2012 until the month of February 2015, Mr. Silva had been the Deputy Governor who supervised the PDD and the Chairman of the Tender Board.
- 2] Mr. Samarasiri had taken over both functions on 09<sup>th</sup> February 2015.
- 3] Mr. Silva said that, sometime in the second half of 2014, the Director General of the Treasury Operations Department has stopped attending meetings of the Domestic Debt Management Committee.
- 4] Mr. Silva confirmed that, when Mr. Dhammika Nanayakkara was the Superintendent of the PDD, Mr. Nanayakkara had submitted the Memo dated 20<sup>th</sup> September 2012 marked "**C52A**".

The witness stated that, this Memo marked "**C52A**" introduced "*a better Governance structure for the direct placements.*".

The witness said that, after that Memo was submitted, the PDD would submit a weekly Rate Sheet to him setting out the Yield Rates proposed for the several tenors of Treasury Bonds when Direct Placements are accepted.

In reply to questions asked by the Commission of Inquiry, Mr. Silva said that, prior to the submission of the Memo marked "**C52A**", there had been no formalized procedure setting out the Yield Rates at which Direct Placements could be accepted by the PDD.

- 5] Mr. Silva said that, the Governor of the CBSL had not intervened in a meeting of the Tender Board during the time the witness chaired the Tender Board.

- 6] When learned Senior State Counsel questioned Mr. Silva regarding the proceeding of the meeting of the Monetary Board held on 23<sup>rd</sup> February 2015, he said that, his recollection was that there was discussion and deliberations with regard to the issue of a 30 Year Treasury Bond but that there was no decision to issue a 30 Year Treasury Bond. He added that, at that point in time, he had mentioned that, the EPF did not have surplus funds to invest in long term Treasury Bonds.

In response to a question from the Commission of Inquiry, whether he was certain that, there was no decision taken to issue a 30 Year Treasury Bond, Mr. Silva was recorded as saying, *“Yes, this was discussed and deliberated and at that time I mean I had certain reservations so this may, is the correct position.”*. At the time the witness subsequently read the Proceedings to check their accuracy, he had deleted the above word *“may”*. When the Commission of Inquiry asked the witness whether he cannot *‘recollect specific instructions?’*, Mr. Silva replied, *“I can’t recollect”*.

- 7] Mr. Silva said that, on 24<sup>th</sup> February 2015, Mr. Mahendran telephoned him and *“asked me to tell SPD to quickly issue a 30-year bond.”*

In response to a question from the Commission of Inquiry, Mr. Silva said that, Mr. Mahendran did not indicate the value of Treasury Bond to be issued.

Mr. Silva said that he communicated this instruction to the Superintendent of the Superintendent.

- 8] Mr. Silva said that, Mr. Mahendran had later informed him that, there was to be a meeting at 8am on 26<sup>th</sup> February 2015 and requested him to attend that meeting.

The witness had attended that meeting. He recalled that, Hon. Ravi Karunanayake, Hon. Kabeer Hashim, Hon. Malik Samarawickrama, Mr. Mahendran, Dr. Weerasinghe and several officials from the Road Development Authority attended that meeting.

Mr. Silva said that, at that meeting, there were discussions with regard to raising money to fund payments for road construction works and with regard to reviewing the related Contracts. He added that, Dr. Weerasinghe was asked to prepare an *“estimate”*.

The witness did not recall any decision being taken to raise any money for these purposes on the following day.



- 9] With regard to the events of 27<sup>th</sup> February 2015, Mr. Silva said that, the Corporate Management Committee had held a meeting on that day. He had participated at that meeting, which was chaired by Mr. Mahendran.

When the meeting ended at around 12 noon, Mr. Mahendran had asked the witness and Dr. Weerasinghe to accompany him to visit the PDD. He said that Mr. Samarasiri had not been at the same place, at that time. Mr. Silva said that he considered Mr. Mahendran's request as being a "*spur of the moment invitation*".

Mr. Silva's narration of the events which occurred during the time when Mr. Mahendran, Dr. Weerasinghe and Mr. Silva visited the PDD on 27<sup>th</sup> February 2015, tallies with the accounts narrated by Dr. Aazim and Ms. Seneviratne.

In response to a question from the Commission of Inquiry, Mr. Silva said that he cannot remember Dr. Weerasinghe suggesting that, only Rs. 5 billion be accepted.

When the Commission of Inquiry asked Mr. Silva, "*Did you contribute to the Discussion ?*", he replied saying "*Not really.*".

- 10] Mr. Silva said that, in his experience, he cannot recollect a previous instance when a Governor of the CBSL visited the PDD during or just after an Auction.
- 11] Mr. Silva said that, he could not recollect any discussions in the Monetary Board prior to 27<sup>th</sup> February 2015, with regard to stopping Direct Placements.
- 12] Mr. Silva said that, sometime after the results of the Auction held on 27<sup>th</sup> February 2015 were released, Mr. Lionel of the National Savings Bank telephoned him and expressed "*his displeasure*" about the increased Rates at which Bids had been accepted at the Auction. The witness also said that, Mr. Lionel expressed "*surprise*" that CBSL had accepted Bids to the value of Rs. 10 billion.
- 13] Mr. Silva said that, when several transfers of senior Officers were given effect to in the month of February 2015, some Officers expressed concerns regarding these transfers and, in this connection, met with Mr. Silva and Dr. Weerasinghe to discuss these concerns. At the request of these Officers, Mr. Silva and Dr. Weerasinghe had then met Mr. Mahendran to discuss these transfers.
- 14] In reply to questions asked by Mr. Harsha Fernando, Attorney-at-Law, who appeared for Mr. Samarasiri, Mr. Silva said that, while the system introduced

by Mr. Dhammika Nanayakkara's Memo dated 20<sup>th</sup> September 2012 marked "C52A" of having Yield Rates approved on a daily basis improved the controls imposed on Direct Placements made by the PDD, the system required further improvement by introducing voice recordings and more supervision.

- 15] When the Commission of Inquiry asked whether, prior to 20<sup>th</sup> September 2012 when a system requiring the prior approval of Yield Rates for Direct Placements was introduced, *"there was almost no system in place"* and *"Public Debt Department officials could make direct placements with some freedom"*, Mr. Silva replied in the affirmative.

When the Commission of Inquiry proceeded to ask whether, under the system followed by the PDD until 27<sup>th</sup> February 2015, officers of the PDD still had the discretion to effectively decide on which party made a Direct Placement by the simple method of picking up a telephone and advising a chosen Primary Dealer that the PDD would accept a Direct Placement, Mr. Silva replied in the affirmative.

- 16] In reply to questions asked by the Commission of Inquiry, Mr. Silva said that, on 26<sup>th</sup> February 2015, Mr. Mahendran had visited the Currency Department and the IT Department and that, therefore, when, on 27<sup>th</sup> February 2015, Mr. Mahendran asked Mr. Silva and Dr. Weerasinghe to accompany him to the PDD, Mr. Silva had thought that, Mr. Mahendran wished to *"just see the operations."*

**Section 5.12** - **Mr. P. Samarasiri**

Mr. Samarasiri served as a Deputy Governor of the CBSL from the month of June 2014 onwards. Mr. Samarasiri was the Deputy Governor who supervised the PDD and the Chairman of the Tender Board, during the period from 09<sup>th</sup> February 2015 up to 20<sup>th</sup> March 2017. Mr. Samarasiri retired from service, upon reaching the age of Retirement later on in 2017.

The relevant evidence of this witness is:

- 1] Mr. Samarasiri had served as the Secretary to the Monetary Board from the month of February 2010 to the month of June 2014.
- 2] 09<sup>th</sup> February 2015, Mr. Samarasiri had been appointed the Deputy Governor who supervised the PDD and the Chairman of the Tender Board. That appointment was made by Mr. Arjuna Mahendran.
- 3] The Assistant Governor who served under him, in the function of supervising the PDD was Mr. S.S. Ratnayaka.

- 4] Mr. Samarasiri's evidence revealed that, other than for REPOrting the decisions of the Domestic Debt Management Committee, submitting the Option Sheets and other material to the Tender Board and submitting Board Papers and REPOrts to the Monetary Board etc., there were no formal Procedures set in place requiring the PDD to submit all Daily REPOrts and Correspondence to the Assistant Governor and Deputy Governor who supervised the PDD.
- 5] Mr. Samarasiri said that, while holding Auctions when issuing Treasury Bonds *"is a transparent system known world over"*, the integrity of an Auction will be compromised if Primary Dealers obtain *"inside information"* which is relevant to the Auction.

In this connection, Mr. Samarasiri went on to say that, staff in the PDD, especially in the Front Office of the PDD, are likely to have an idea of the approximate quantum of funds that will be raised at an Auction and the likely "cut off" rate up to which Bids will be accepted at an Auction.

In reply to a question asked by the Commission of Inquiry, Mr. Samarasiri acknowledged the possibility that, an officer in the PDD who has this information could, if he wished to act improperly, *"leak"* that information to a Primary Dealer. The witness described this as *"a structural weakness in the system."*

He added that, the PDD needs *"fundamental reforms"* to reduce this risk and to improve controls.

- 6] In reply to further questioning by the Commission of Inquiry as to whether there was reason to think that, persons outside the PDD - *ie:* in the CBSL or in the market - *"were privy to the fact that there would be a many fold increase between the amount offered as contained in the [public notice vis-à-vis the amount that could be in fact secured at the auction]"* held on 27<sup>th</sup> February 2015, Mr. Samarasiri said that, it was a possibility.

When the Commission of Inquiry asked him, *"..... are you personally aware that anybody outside the Public Debt Department knew that on the 27<sup>th</sup> of February, more than one billion would be accepted ?"*, Mr. Samarasiri replied, *"I can't say who but looking at the bid pattern I examined the bid Pattern later. From that I understood there were."*

When the Commission of Inquiry asked him, *"..... now you had much time to think about It. You are convinced that the bid pattern are such that on 27<sup>th</sup> of February that some people, unknown people had prior knowledge."* Mr. Samarasiri replied, *"Yes."*

When the Commission of Inquiry asked him, *“When you look at the bid sheet any person with experience according to you with knowledge and intelligence would conclude there has been some people whoever they may be had prior knowledge that much more than one billion rupees would be accepted ?”*, Mr. Samarasiri replied, *“Yes.”*

- 7] Mr. Samarasiri acknowledged that, on 27<sup>th</sup> February 2015, the Deputy Governor and Assistant Governor supervising the PDD - *ie*: himself and Mr. S.S. Ratnayaka - and the Superintendent of Public Debt – *ie*: Ms. D. Seneviratne - all had little experience in their respective functions.
- 8] With regard to the Procedures that were in place in respect of Direct Placements accepted by prior to 27<sup>th</sup> February 2015 by the PDD, Mr. Samarasiri said that, there was an absence of adequate safeguards such as: (i) specification of appropriate Authority Limits based on the value of a transaction; (ii) the requirement of dual control of all transactions; (iii) the requirement of dual signatories to authorise all transactions; (iv) the absence of a voice recording facility; (v) the lack of adequate control on decisions taken by officers with regard to the Yield Rates at which Direct Placements were accepted; and (vi) the lack of adequate REPOrting to higher management.
- 9] Mr. Samarasiri said that, prior to 27<sup>th</sup> February 2015, details regarding a Direct Placement that had been accepted by the PDD were sent to the Deputy Governor after the transaction had been done.
- 10] In view of Mr. Samarasiri’s evidence that, there were several weaknesses which were inherent in the Procedures that were in place in respect of Direct Placements accepted by the PDD prior to 27<sup>th</sup> February 2015, the Commission of Inquiry asked him, what modality should be followed if this Commission of Inquiry decides to recommend that, these procedures and the Direct Placements made prior to 27<sup>th</sup> February 2015, should be examined.

Mr. Samarasiri replied that, a Forensic Audit should be carried out.

- 11] When learned Additional Solicitor General asked Mr. Samarasiri about his responses to the Yield Rate Sheets submitted to him by the PDD in the month of February 2015, the witness said that, he asked questions regarding *“the criterion applied for fixing these rates”*. He said that, he did not receive a proper response from the PDD. However, he added that, he approved some of the transactions since there was an urgent need of funds.
- 12] Mr. Samarasiri said that, he has seen instances where *“..... even few billions raised same day”* and later agreed when he was asked whether, *“..... several*

*billion can be raised on the same day? Value same day?”* by way of Direct Placements.

- 13] Mr. Samarasiri said that, prior to 27<sup>th</sup> February 2015, there had been no discussion at the Monetary Board with regard to the advantages and disadvantages of Direct Placements.
- 14] Mr. Samarasiri said that, during the time he was the Secretary to the Monetary Board, he has not seen any complaints made by Primary Dealers with regard to Direct Placements.
- 15] In response to a question from the Commission of Inquiry, Mr. Samarasiri said that, the Bid Sheet relating to the Auction held on 27<sup>th</sup> February 2015 had not been submitted to the Monetary Board at its meeting held on 06<sup>th</sup> March 2015.
- 16] Mr. Samarasiri said that the objectives of the Tender Board are to determine the maturity-wise volume of Treasury Bonds to be issued at an Auction and the Cut Off Point up to which to accept Bids at an Auction, taking into account the developments in the market and the Treasury's borrowing needs, while adhering to the Monetary Policy requirements of the CBSL.
- 17] Mr. Samarasiri said that, at the time he started chairing the Tender Board, the only material submitted to the Tender Board were the Option Sheets prepared by the PDD. He said that, he introduced the practices of submitting additional relevant material and making Presentations for the consideration of the Tender Board.
- 18] Mr. Samarasiri said that, during the meeting of the Tender Board on 27<sup>th</sup> February 2015, the PDD submitted only one Option Sheet recommending that Bids to the value of Rs.10.058 billion be accepted.
- 19] Mr. Samarasiri said that, the Governor of the CBSL has no role to play in the determinations of the Tender Board. Instead, the Governor's function is to consider the decision arrived at by the Tender Board. The witness said that, the Governor has the authority to approve the decision of the Tender Board or to “*overrule*” or vary the decision. He said that, there were 4 or 5 instances in which Mr. Mahendran varied a decision of the Tender Board.
- 20] Mr. Samarasiri said that, on 27<sup>th</sup> February 2015, he received the draft Minutes of the meeting of the Monetary Board held on 23<sup>rd</sup> February 2015, from Mr. H.A. Karunaratne. He said he corrected the draft Minutes on Sunday, 01<sup>st</sup> March 2015, when he was working at his home and returned the corrected draft Minutes to Mr. H.A. Karunaratne on 02<sup>nd</sup> March 2015. Mr. Samarasiri said that,

he received the corrected second draft Minutes from Mr. H.A. Karunaratne on 02<sup>nd</sup> March 2015 and submitted the draft Minutes to the Governor.

- 21] Mr. Samarasiri said that, throughout his career, he has paid particular attention to ensuring that Minutes of the Monetary Board are accurately prepared. He said that, in his experience, other Deputy Governors may not accord the same degree of importance to that task.
- 22] Mr. Samarasiri said that, at the meeting of the Monetary Board held on 23<sup>rd</sup> February 2015, Mr. Mahendran set out several *“technical reasons”* for the issue a 30-year Treasury Bond - such as extending the Yield Curve in order to seek to restructure the Debt Profile away from a predominance of debt in the four and five years maturities. Mr. Samarasiri evidence was that, at the meeting held on 23<sup>rd</sup> February 2015, *“ ..... what the Governor said we must issue 30-year bonds.”* and *“He said we must issue 30-year treasury Bonds and extend the maturity profile.”*

Mr. Samarasiri added that, the *“Governor leads the discussion”* at meetings of the Monetary Board. He continued and said that, in his experience, when a Governor makes a proposal at a meeting of the Monetary Board and the other members of the Monetary Board do not voice any opposition to that proposal, the practice is to regard that proposal as being a decision of the Monetary Board.

When learned Additional Solicitor General asked Mr. Samarasiri *“..... what I want to know is whether there was a decision by the Monetary Board to go in for a 30 year bond auction during the week ? Yes or No ?* , Mr. Samarasiri replied *“Is yes, is Yes.”*

- 23] With regard to the meeting held on 26<sup>th</sup> February 2015, Mr. Samarasiri said that he had not heard or seen a request made by any of the Ministers who had been present to the effect that, the CBSL should, at an Auction, raise any of the funding requirements which had been discussed at that meeting.
- 24] With regard to the meeting of the Tender Board held on 27<sup>th</sup> February 2015, Mr. Samarasiri said that, Dr. Aazim had said that, the PDD’s *“initial recommendation”* was to accept Rs. 2.6 billion and that, Dr. Aazim had recounted the events that took place when Mr. Mahendran visited the PDD with the two Deputy Governors.

Mr. Samarasiri said that, he had concerns from a *“Governance”* point of view and said that *“I openly asked from the Tender Board, if the Governor can issue instruction why we have a Tender Board ?”*. In response to a question from learned Additional Solicitor General, Mr. Samarasiri said he felt it was improper



for Mr. Mahendran to have intervened in the decision-making process of the PDD.

Mr. Samarasiri said that, he wondered how he could be sure that, Mr. Mahendran had, in fact, visited the PDD and given an instruction to accept Bids to the value of Rs.10.058 billion. In this connection, Mr. Samarasiri said, *“Now immediate response was that then I ask how do I believe that Governor came and gave this instruction.”* The witness said that then it was suggested to him that he contacts Mr. Mahendran and ascertains the details. In this connection, Mr. Samarasiri said, *“Then Mrs. Mutugala said DG why don’t you contract the Governor and discuss whether he did it and why ?”*.

Mr. Samarasiri said that, the other members of the Tender Board remained silent and said that, the concern of all the members of the Tender Board, including himself, was to verify the instructions said to have been given by Mr. Mahendran.

In this connection, in response to a question from learned Additional Solicitor General, Mr. Samarasiri said, *“ .... Any discussion did not take place. We were concerned only about the Governor going and sending instruction verification only. No discussion took place.”*.

Mr. Samarasiri said that, he then telephoned Mr. Mahendran’s office using the Intercom that was in the Conference Room. However, he had been told that, Mr. Mahendran was not in his office.

Mr. Samarasiri said that, he then went to his office which is in the adjoining room, to telephone Mr. Mahendran since he would use his mobile phone, which was in his office. He said that, he does not bring a mobile phone with him to meetings.

Mr. Samarasiri said that, when he telephoned Mr. Mahendran, he was told that, Mr. Mahendran had instructed the PDD to accept Bids to the value of Rs.10.058 billion. In this connection, Mr. Samarasiri said, *“The first question I asked, did you instruct the Public Debt Department to accept 10 billion. Then he said yes. Then I said the Public Debt Department say it is 10 times. It is 10 times the offered amount. So is this OK. That is the question I wanted to know is his rationale, Because I am talking about my experience with the Governor. If the Governor is giving instruction there must be some rationale. Otherwise, Governor may not give instruction. I want to know it.”*.

Mr. Samarasiri said that, Mr. Mahendran had given the following three reasons why he had instructed the PDD to accept Bids to the value of Rs.10.058 billion - (i) the expectation that, the removal of the Two-Tier Interest Rate structure on the overnight Standing Deposit Facility and the application of a single Interest

Rate of 6.5% on all overnight Standing Deposits, would guide Interest Rates back to the Rates which prevailed prior to September 2014; (ii) the fact that there was excess Liquidity which should be mopped up and which brought about a demand for Treasury Bonds; and (iii) the Government requiring extra funding.

When the Commission of Inquiry asked Mr. Samarasiri whether he accepted the reasoning adduced by Mr. Mahendran, the witness said *“Immediate response I accepted is a very technical ...”*.

Mr. Samarasiri said that, he then returned to the Conference Room and conveyed to the members of the Tender Board that, Mr. Mahendran had confirmed that he instructed the PDD to accept Bids to the value of Rs.10.058 billion. Mr. Samarasiri said he also informed the members of the Tender Board of the three reasons adduced by Mr. Mahendran.

When learned Additional Solicitor General suggested to Mr. Samarasiri that, Mr. S.S. Ratnayaka had then said that, Mr. Samarasiri should have had his conversation with Mr. Mahendran on ‘Speaker Phone’ mode so that the other members of the Tender Board could hear the conversation, Mr. Samarasiri said that, Mr. S.S. Ratnayaka had not made such a statement. When learned Additional Solicitor General suggested to Mr. Samarasiri that, Mr. Ratnayaka then said that, the Tender Board should not take such a decision *“even if a gun is aimed at our heads”* and that, *“if this decision is implemented ..... it would be much better to remove the respective clothes Board Members and walk out nude”*, Mr. Samarasiri emphatically denied that such comments were made.

Mr. Samarasiri said that, thereafter, he started drafting the Minutes of the meeting of the Tender Board on the lines of his conversation with Mr. Mahendran.

When the Commission of Inquiry asked, with regard to Mr. Samarasiri’s telephone conversation with Mr. Mahendran, *“You listened and obeyed ? Is that what you are saying ?”*, Mr. Samarasiri replied, *“So I felt ..... reasons had lot of value.”* When the Commission of Inquiry then asked, *“So you basically obeyed ?”*, Mr. Samarasiri replied, *“Yes.”*

When the Commission of Inquiry asked from Mr. Samarasiri *“If the Governor had not intervened the Tender Board would have accepted 2.6 billion ?”*, Mr. Samarasiri replied, *“Not 2.6 billion. We would have discussed.”* When the Commission of Inquiry asked *“You would have discussed ? So it would have been in that region. Correct ?”*, Mr. Samarasiri replied, *“In that region.”*

When the Commission of Inquiry then asked whether the Tender Board would have accepted Rs.10.058 billion if Mr. Mahendran had not intervened,

Mr. Samarasiri unequivocally replied that, the Tender Board would not have accepted that sum.”.

When the Commission of Inquiry then asked from Mr. Samarasiri *“So, therefore the only reason why the Tender Board eventually ended up signing off ? an acceptance of 10.058 billion was Mr. Mahendran’s instruction. Is that correct ?”*, Mr. Samarasiri replied, *“Yes on those views and instructions we look at and accordingly accepted.”*.

- 25] When Mr. Samarasiri was asked why he changed the draft Minutes of the meeting of the Monetary Board held on 23<sup>rd</sup> February 2015 to read that the Chairman informed the Board that Direct Placements had been *“temporarily suspended”* and not *“stopped”* as set out in the draft Minutes, Mr. Samarasiri said that he did so because his *“opinion”* was that it was not a *“final”* decision.
- 26] Mr. Samarasiri said that, the *“correct channel”* to take a decision regarding a change to the Two-Tier Interest Rate structure on the overnight Standing Deposit Facility was a decision by the Monetary Board upon the recommendation of the Monetary Policy Committee. He said the Market Operations Committee had no role to play in that decision-making process.
- 27] In reply to a question asked by the Commission of Inquiry, Mr. Samarasiri said that, the Treasury Bond Auction held on 27<sup>th</sup> February 2015 was not discussed at the meeting of the Monetary Board held on 06<sup>th</sup> March 2015.
- 28] With regard to the Treasury Bond Auctions held in the month of March 2016, Mr. Samarasiri said that, the decisions of the Tender Board were correct and said these decisions resulted in the funds required by the Government being raised at an advantageous price to the Government.

In reply to a question from learned Senor State Counsel whether *“..... if you look at the March 2016 auctions as a whole ..... it appears that these were well considered decisions of the Tender Board ..... ?”*, Mr. Samarasiri replied, *“Yes. Very much. Because at that time, the Tender Board was fully professional deliberative, lot of things improved at this stage”*.

- 29] Mr. Samarasiri said that, the identity of the Bidders at the Treasury Bond Auctions held in the month of March 2016, was not known to the Tender Board at the time of its meetings.
- 30] Mr. Samarasiri said that, when the Monetary Board examined the Report submitted by the PDD with regard to the Treasury Bond Auctions held in the month of March 2016, the members of the Monetary Board did not insist on the identity of the Bidders being set out in the REPOrts. He added that, he also

recollected Mr. Mahendran saying, in this connection, that there was no need to “*micro manage*”.

- 31] Mr. Samarasiri said that, in the weeks after Mr. Mahendran assumed office as the Governor of the CBSL “.... *He was having one to one meetings. Throughout the day, from different, different people. And he said, he had an open office policy..*”.

Mr. Samarasiri said that, Mr. Mahendran did not consult him before making several transfers in the month of February 2015.

- 32] Mr. Samarasiri described Ms. D. Seneviratne as being “*a good Manager ..... The people management she had those capabilities*”.

The witness said that, he recalled Mr. Mahendran saying, with regard to Ms. D. Seneviratne being transferred to the PDD, “..... *I want a good manager, not the specialized person. Because specialized persons are there.*”.

- 33] When learned Senior State Counsel asked Mr. Samarasiri why he considered that he should be represented by Counsel before this Commission of Inquiry, he said “*I have lot of quarrel working with the senior officers of the Attorney General’s Department and the legal background.*” and “..... *I saw a lot of legal consultation taking place without involving me.*”. Mr. Samarasiri said that, he decided he should be represented by Counsel before this Commission of Inquiry because “..... *to assist the Commission I have some set of information. I thought information may not go.*”. He stated that, he had obtained permission from the Governor of the CBSL before arranging for representation by Counsel.

- 34] Mr. Harsha Fernando, Attorney-at-Law, who represented Mr. Samarasiri read the following statement which he said had been made by John Exter at the time the CBSL was established:

*“Although the ultimate authority rest in the Monetary Board the draft law nevertheless recognizes the need for a strong Chief Executive for the Central Bank. Accordingly, the Governor is made the Chairman of the Monetary Board and he is given control of the agenda for its meetings. He is responsible for the execution administration of policies and measures adopted by the Monetary Board for the direction supervision and control of the operations of the Central Bank and for its internal management administration. He is to be the chief representative of the Bank ..... He will be require to devote his full professional time to the business of the Central Bank since the other two members of the Monetary Board will be part time members and because the problems facing the Central Bankers are frequently complex and technical .... It is to be expected that the full time Governor will be the most influential member of the*

*Board and will be tend to dominate it. Accordingly, the Governor should be a man of recognized and outstanding competencies in understanding economic problems of Ceylon and of unquestioned integrity and responsibility.”.*

Mr. Samarasiri said that, these words correctly describe a Governor’s role in the CBSL.

- 35] In response to questions from Mr. Chanaka De Silva, Attorney-at-Law, who represented Mr. Mahendran, Mr. Samarasiri said that, it is usual for a Governor to lead the discussions at the Monetary Board.

Mr. Samarasiri said that, a Governor has the power to vary a decision of the Tender Board.

Mr. Samarasiri said that, he was not aware of any concerns raised by the public about Direct Placements.

Mr. Samarasiri agreed with the suggestion put to him by learned Counsel that, there was a *“close rapport”* between officers of the PDD and the officers of Primary Dealers and they talk and negotiate Rates and that, *“..... rates which are given, might often depend on personal contacts and rapport between the dealers on the two sides ?.*

- 36] In reply to questions from learned Senior Additional Solicitor General, Mr. Samarasiri said that he had an *“official relationship”* with Mr. S.S. Ratnayaka.

When Mr. Samarasiri was asked whether he had a *“pleasant working relationship”* with Mr. S.S. Ratnayaka, he said he did not. He described Mr. S.S. Ratnayaka as being *“very lethargic”*.

### **Section 5.13 - Mr. S.S. Ratnayaka**

Mr. Ratnayaka was promoted to the post of Assistant Governor of the CBSL on 01<sup>st</sup> January 2012. Prior to that, he had functioned as the Superintendent of the PDD from the month of June 2010 up to 01<sup>st</sup> January 2012. The evidence of this witness with regard to his role as the Superintendent of the PDD, was on similar lines as the evidence of Mr. Dhammika Nanayakkara and Mr. Sarathchandra.

The relevant evidence of this witness is:

- 1] Mr. Ratnayaka said that, during his tenure as the Superintendent of the PDD, no Governor had intervened during an Auction by the PDD.

2] Mr. Ratnayaka was firmly of the view that, it was essential for the CBSL to have the option of raising money by way of Treasury Bonds both at Auctions and by accepting Direct Placements. In this connection, he described the market as being “a very narrow one” which was not of a sufficient size or depth to enable raising money by way of Auctions only. He said that, therefore, it is necessary to have the alternative method of accepting Direct Placements in addition to Auctions, so that Public Debt could be raised “at optimum cost,” and so as “to ensure the operation of the financial system.”

3] Mr. Ratnayaka said that he was aware that only Rs. 1 billion had been offered at the Auction held on the 27<sup>th</sup> of February 2015, since, on 24<sup>th</sup> February 2015, Dr. Aazim had sought approval for the Press Notice.

The witness said that he had then asked Dr. Aazim whether it would be possible to offer a sum of Rs. 2 billion at the Auction. However, Dr. Aazim had said that it was preferable to offer only Rs. 1 Billion, since there was reduced Liquidity in the Market due to the fact that no Government Securities were maturing for payment within that time frame.

4] At the meeting of the Tender Board held on 27<sup>th</sup> February 2015, the PDD officials had submitted a recommendation to the effect that a sum of Rs. 10.058 Billion be accepted. The witness stated that the Option Sheet marked “C39B6”, which recommends that Rs. 10.058 Billion be accepted, had been submitted by the PDD to the Tender Board. He said that this was the only Option Sheet submitted by the PDD, at the commencement of the meeting.

5] Mr. Ratnayaka said that he was surprised at the aforesaid recommendation, especially since he knew that only Rs.1 billion had been offered.

Therefore, he had sought an explanation from the PDD officers.

6] The PDD officers had then narrated the events that occurred when Mr. Mahendran visited the PDD on two occasions on that day and said that, they had submitted the recommendation to accept Rs. 10.058 billion consequent to Mr. Mahendran’s instructions.

Mr. Ratnayaka also said that, when he asked the PDD officers why they made this recommendation, they had also shown him the original Option Sheet prepared by the PDD recommending that Rs. 2.068 Billion be accepted. He said that copies of the original Option Sheet were not distributed among the members of the Tender Board and it was not tabled at the meeting of the Tender Board.

7] Mr. Ratnayaka, stated that he objected to accepting Bids to the value of Rs.10.058 Billion, since he was of the view, that this will adversely affect the



Government's Borrowing Programme and impact the financial markets and the economy. Mr. Ratnayaka added that, *"Then after explaining those things then Tender Board members were with me because they were aware of the market situations and they noted the implications. Then ultimately I said that even at gun point that we being the Tender Board members we cannot accept others recommendations. We have to deliberate facts and we have to make the decision. We have to make the recommendation. If the Governor wants to make a decision then he can do so without implicating the Tender Board."*

It is to be noted that, although Mr. Ratnayaka said, that the other members of the Tender Board *"were with me"* when he narrated his opposition to accepting Bids to the value of Rs.10.058 billion, he did not mention that any other member of the Tender Board actually voiced any objections or opposition at the meeting.

8] Mr. Ratnayaka said that, he then suggested that the members of the Tender Board meet Mr. Mahendran immediately and have Direct Placements reinstated. He said that the other members of the Tender Board had been in agreement. Mr. Ratnayaka said that, Mr. Samarasiri agreed with this suggestion.

9] Mr. Ratnayaka said that, Mr. Samarasiri then tried to contact Mr. Mahendran's Office using the Intercom in the Conference Room. Mr. Samarasiri had said that he had been then told that Mr. Mahendran was not in his Office.

Mr. Samarasiri had then left the Conference Room.

10] Mr. Ratnayaka said that Mr. Samarasiri returned about 4 or 5 five minutes later and said that he contacted Mr. Mahendran on the telephone and that, Mr. Mahendran had *"required"* that Bids to the value of Rs. 10.058 billion be accepted. In this connection, Mr. Ratnayaka stated Mr. Samarasiri said, *"He said that he contacted the Governor over the phne and Governor required to take 10.058 billion."*

11] Mr. Ratnayaka said, Mr. Samarasiri did not state any reasons adduced by Mr. Mahendran for this instruction.

12] Mr. Ratnayaka said that he had then told Mr. Samarasiri, that Mr. Samarasiri should have telephoned the Governor in the Conference Room and put the telephone on *'Speaker Mode'* so that the other members of the Tender Board could hear the conversation. Mr. Ratnayaka said that, Mr. Samarasiri did not respond to this and remained silent.

13] Mr. Ratnayaka said that Mr. Samarasiri then stated that, *"we have to comply with the Governor's direction."*

- 14] Mr. Ratnayaka said that he was “*really frustrated*” and that, he had said, “*if we accept this type of recommendation or decision I said that, “අපි අපේ ඇඳුම් ගලෝලා යන්න ඕනේ කියලා මුත් කිව්වා.”*”.

In response to a question from the Commission of Inquiry, Mr. Ratnayaka stated that, if he had made this statement, Dr. Aazim, Mrs. Mutugala and Mrs. Seneviratne would have remembered that such a statement had been made.

- 15] Mr. Ratnayaka said that, the acceptance of Rs. 10.058 billion at a Weighted Rates and Secondary Market Yield Rates. Mr. Ratnayaka said that this was the “*immediate shock*”. In this connection, he referred to the Graphs marked “**C64A**” and “**C66F**”.

- 16] Mr. Ratnayaka stated that, if only Rs. 2.068 billion had been accepted at the Auction on 27<sup>th</sup> February 2015, the balance requirement could have been raised, by way of Direct Placements, on or before 02<sup>nd</sup> March 2015.

- 17] Mr. Ratnayaka stated that during the meeting of the Tender Board held on 27<sup>th</sup> February 2015, the PDD officers conveyed to the Tender Board that the acceptance of Direct Placements had been “*temporarily suspended*”.

In this connection, in response to a specific question from the Commission of Inquiry asking whether the PDD officers had said that, Direct Placement had been “*stopped*” on 27<sup>th</sup> February 2015, Mr. Ratnayake replied, “*No. Actually that decision conveyed to us was direct placement whether it is Treasury Bills or Treasury Bonds temporarily suspended.*”.

In response to a further question from the Commission of Inquiry as to whether, “*So on the 27<sup>th</sup> of February 2015 your evidence is that at the tender board it was conveyed to you that direct placements had been temporarily suspended ?*”, Mr. Ratnayaka replied, “*Yes.*” .

- 18] Mr. Ratnayaka gave extensive evidence on his opinions with regard to the advantages and disadvantages of Direct Placements *vis-a-vis* Auctions. In this connection, Mr. Ratnayaka produced several Graphs in support of his views.

#### **Section 5.14 - Mr. K.V.K Alwis**

Mr. Alwis is the Additional Director of the Information Technology Department of the Central Bank of Sri Lanka.

The Evidence-in-Chief of this witness was placed before the Commission of Inquiry by way of: his Affidavit affirmed to on 22<sup>nd</sup> June 2017 which was marked “**C164**” and which was supplemented by his further Affidavit affirmed to on 28<sup>th</sup> June 2017, which

was marked “**C178**”, and his Affidavit affirmed to on 22<sup>nd</sup> June 2017, which was marked “**C165**”.

The relevant evidence of this witness is set out below:

- 1] Pursuant to a request made by the Officers of the Hon. Attorney General’s Department assisting the Commission of Inquiry, the witness had prepared and presented, in an organized documentary form, Data extracted from the LankaSettle System of the CBSL which records Transactions in Treasury Bonds which were issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016.
- 2] The witness stated that, during this period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016, Treasury Bonds bearing 27 ISINs had been issued at Public Auctions auctioned conducted by the CBSL.

A List of these ISINs was attached to the Affidavits marked “**C164**”/ **C178**” marked “**Annex A**”.

- 3] Mr. Alwis said that, each Treasury Bond has a distinctive International Securities Identification Number [ISIN]. Further, Treasury Bonds which are given unique ISIN numbers may be issued more than once.

Consequently:

- (a) Some of the ISINs issued during the relevant period have also been issued prior to 01<sup>st</sup> February 2015;
- (b) Some of the ISINs have been issued more than once during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016;
- (c) Some of the ISINs issued during the relevant period have also been issued (re-opened) after 31<sup>st</sup> March 2016.

Therefore, Mr. Alwis annexed to Affidavits marked “**C164**”/ **C178**” marked “**Annex B**”, a List stating the dates on which each of the aforesaid ISINs were first issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016 and, in instances where ISINs have also been issued after 31<sup>st</sup> March 2016, the first date of issue of that ISIN after 31<sup>st</sup> March 2016.

This List has been certified to be correct by the Superintendent of Public Debt.

- 4] Mr. Alwis stated that, it has been established by the CBSL and is set out in the documents which had been produced in evidence before this Commission of

Inquiry that, Net Profit of approximately Rs. 5.46 billion made by Perpetual Treasuries Ltd during the Financial Year ended 31<sup>st</sup> March 2016 was, by far, the largest Profit that had been made by a Primary Dealer during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016. Mr. Alwis went on to say that, this Net Profit of approximately Rs. 5.46 billion made by Perpetual Treasuries Ltd amounted to 86.4% of the total Profits made by all "Stand Alone" Primary Dealers during the Financial Year ended 31<sup>st</sup> March 2016 and 52.9 % of the total Profits made by all Primary Dealers [including Primary Dealers which are Commercial Banks] during the Financial Year ended 31<sup>st</sup> March 2016.

Mr. Alwis stated that, in view of the very large difference between the Profits made by Perpetual Treasuries Ltd during this period and the Profits made by other Primary Dealers, the Officers of the Hon. Attorney General's Department assisting the Commission of Inquiry had instructed him that, in the first instance, the Data extracted from the LankaSettle System of the CBSL should be limited to Transactions by Perpetual Treasuries Ltd in Treasury Bonds which were issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016. The Officers of the Hon. Attorney General's Department assisting the Commission of Inquiry had instructed Mr. Alwis that, further information may be required if so directed by the Commission of Inquiry.

5] Mr. Alwis stated, that in order to limit the Data extracted from the LankaSettle System to Perpetual Treasuries Ltd's Transactions upon Treasury Bonds in the Primary Market and Secondary Market during the relevant period, the following methodology has been used:

- (a) Since Treasury Bonds issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016 which have been purchased by Perpetual Treasuries Ltd could have been disposed by Perpetual Treasuries Ltd at any time after such purchase, Mr. Alwis had been instructed by the Officers of the Attorney General's Department assisting the Commission of Inquiry that, in view of the magnitude of the task involved, the Data that is to be extracted should be limited to the disposal of such Treasury Bonds by Perpetual Treasuries Ltd during a period from 01<sup>st</sup> February 2015 up to the end of six months from 31<sup>st</sup> March 2016.

The witness said that, in fact, this limitation was further restricted, as he explained subsequently;

- (b) Thus, the witness had also been instructed that, where Treasury Bonds bearing a particular ISIN have been issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016 and there has been a Re-Issue of that same Treasury Bond after 31<sup>st</sup> March 2016, the extraction of Data should exclude all Transactions after

31<sup>st</sup> March 2016 upon Treasury Bonds bearing that same ISIN in the Secondary Market;

- (c) Further, the witness had also been instructed that, where Treasury Bonds bearing a particular ISIN have been issued before the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016, the extraction of Data should exclude all Transactions upon Treasury Bonds bearing that same ISIN in the Secondary Market prior to the first date on which Treasury Bonds bearing that same ISIN were issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016;

6] Mr. Alwis annexed to his Affidavit, marked “D”, a List of all ISINs issued during the relevant period, the total percentage of Treasury Bonds purchased by Perpetual Treasuries Ltd in respect of all ISINs issued at all Auctions held during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016 and the total percentage of Treasury Bonds bearing each ISIN purchased by Perpetual Treasuries Ltd at all these Auctions.

7] Mr. Alwis stated that, as set out in the List marked “D”, Perpetual Treasuries Ltd has purchased at least 2.8% of all Treasury Bonds bearing of 13 ISINs which were issued at the Auctions held during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016.

Mr. Alwis said that, Treasury Bonds bearing of 14 other ISINs which were issued at the Auctions held during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016 have not been considered for the purpose of presenting evidence to the Commission since there was only limited participation by Perpetual Treasuries Ltd with regard to the Treasury Bonds bearing those 14 other ISINs.

8] Mr. Alwis said that, the Net Cash Inflows [*ie*: the difference between the Sale Prices and Purchase Prices) received by Perpetual Treasuries Ltd from Sale of Treasury Bonds bearing the aforesaid 13 ISINs, which were purchased by Perpetual Treasuries Ltd during the relevant period have been computed and are set out in the document filed with his Affidavit marked “E”.

Mr. Alwis stated that, this Data has been extracted from the LankaSettle System.

9] Mr. Alwis explained that, Transactions between Market Participants where Title is transferred on the basis of an outright Purchase or Sale [as against a REPO or a Reverse REPO Transaction], take place on the basis of Receive versus Payment [RVP] Transactions or Receive Free [RVF] Transactions, in the case of Purchases and Delivery versus Payment [DVP] Transactions or Delivery Free [DVF] Transactions, in the case of Sale.

He further explained that, where Transactions take place on a RVF or DVF basis, the Price, if any, for which an amount of Treasury Bonds has been purchased or sold is not shown in the LankaSecure System.

However, where Transactions take place on DVP basis, a sum of money is recorded in the LankaSecure System as the Payment received for that Transaction.

- 10] Mr. Alwis continued to explain stating that, the movement of Treasury Bonds between the Accounts of a Market Participant is called “REPOsitioning” and is indicated in the System as a “RPG” Transaction. Mr. Alwis said that, such “RPG” Transactions could take place between two Accounts of the same Market Participant or between the Account of a Market Participant and the Account of a Customer of that Market Participant.

Mr. Alwis stated that, “RPG” Transactions [*ie*: “REPOsitioning” Transactions] have not been included in the extraction of Data used for the computations made by him.

- 11] Mr. Alwis stated that, where RVF Transactions are relevant to the computations made by him, the following methodology has been used to assign a value to such RVF Transactions so as to estimate the minimum Net Cash Inflows received by PPTL consequent to its Transactions upon Treasury Bonds bearing the aforesaid 13 ISINs during the relevant period:

- (a) It becomes necessary to assign a value to RVF Transactions because, in the case of some ISINs, it is observed that if only RVP Purchases are taken into account, the quantity of Treasury Bonds sold on a DVP basis exceed the total quantity of Treasury Bonds purchased on a RVP basis. In the case of all such ISINs, in terms of the Data in the LankaSecure System, the quantity of Treasury Bonds obtained on a RVF basis is at least equal to the difference between Sales on a DVP basis and Purchases on a RVP basis;
- (b) Therefore, where the quantity of Treasury Bonds sold on a DVP basis is larger than the quantity of Treasury Bonds purchased on a RVP basis, the difference between such quantities is assumed to have been obtained on a RVF basis;
- (c) In order to assign a value to such RVF Purchases, the total book value of Treasury Bonds purchased by Perpetual Treasuries Ltd on a RVP basis has been divided



by the face value of such Treasury Bonds to arrive at an Average Purchase Price per Rs. 100/- Treasury Bond;

- (d) The differences referred to in paragraphs (a) and (b) above, has been multiplied by the aforesaid Average Purchase Prices to obtain an estimated value for the Treasury Bonds obtained on a RVF basis;
- (e) Accordingly, a total value has been assigned to all purchases by adding the total cost of Purchases on a RVP and the estimated value of Treasury Bonds obtained on a RVF basis;
- (f) The total quantity of Treasury Bonds transferred by Perpetual Treasuries Ltd on a DVF basis has not been assigned any value since this methodology of estimation is designed to identify only the minimum Net Cash Inflows received by Perpetual Treasuries Ltd;
- (g) The LankaSecure System shows the cash inflow for each Sale on a DVP basis and, therefore, it is possible to calculate total value of such Sales;
- (h) Thus, using the aforesaid methodology, the estimated Net Cash Inflows – *ie*: the difference between the monies received by Perpetual Treasuries Ltd from the Sale of Treasury Bonds bearing the aforesaid 13 ISINs and the monies paid by Perpetual Treasuries Ltd for the Purchase of Treasury Bonds bearing the aforesaid 13 ISINs - has been computed;
- (i) Mr. Alwis annexed to his Affidavit, marked “F” to “R”, 13 Tables setting out these estimated Net Cash Values in respect of each of the aforesaid 13 ISINs;
- (j) Mr. Alwis stated that, a document setting out the total of the aforesaid estimated total Net Cash Inflows which Perpetual Treasuries Ltd received from Transactions upon the Treasury Bonds bearing the aforesaid 13 ISINs has been filed with his Affidavit marked “S”.

Mr. Alwis said that, as set out therein, the estimated total Net Cash Inflows which Perpetual Treasuries Ltd received from Transactions upon the Treasury Bonds bearing the

aforesaid 13 ISINs aggregates to Rs.  
12,221,203,444/-.

Mr. Alwis went on to observe that, Net Cash Inflows which Perpetual Treasuries Ltd received from Transactions upon Treasury Bonds bearing 7 ISINs [the out of aforesaid 13 ISINs] account for Rs. 11.8 billion out of this aggregate amount of Rs. 12,221,203,444/-.

Thus, Transactions upon Treasury Bonds bearing 7 ISINs account for 90% of the Net Cash Inflows which Perpetual Treasuries Ltd received from Transactions upon Treasury Bonds bearing all 13 of the aforesaid ISINs;

- 12] Mr. Alwis pointed out that, the Tables in relation to the 7 ISINs where Perpetual Treasuries Limited generated approximately 90% of its Net Cash Inflows have been previously referred to as having being marked from “F” to “L”.

The witness went on to say that, for the purposes of completeness, Lists [in electronic form] of all Transactions on Treasury Bonds, in both the Primary Market and the Secondary Market, during the relevant period, upon each of the aforesaid ISINs [including Transactions by Perpetual Treasuries Ltd] are annexed to his Affidavit marked “F1”, “G1”, “H1”, “I1”, “J1”, “K1” and “L1”.

Mr. Alwis stated that, this information is confidential as it contains Price Sensitive Commercial Information with regard to every person who transacted in Treasury Bonds during this period.

- 13] Mr. Alwis stated that, these Lists [in electronic form] marked “F1” to “L1” contain all DVP/RVP and DVF/RVF Transactions upon the 7 ISINs referred to by him and that, these Transactions are separately identified by an individual Row Number and that, the Columns in these Lists have self-explanatory Names.

Thus, the Transactions by Perpetual Treasuries Ltd which are referred to by the witness in his evidence can be verified by checking against the corresponding Row Number in the Lists marked “F1” to “L1”.

- 14] The witness went on to say that, Lists setting out the total Purchases, by Perpetual Treasuries Ltd, on RVP and RVF basis, of Treasury Bonds bearing each of the aforesaid ISINs, during the relevant period, are annexed to his Affidavit marked “F2”, “G2”, “H2”, “I2”, “J2”, “K2” and “L2”.

Thereafter, Lists setting out the total Sales of Treasury Bonds, by Perpetual Treasuries Ltd, on DVP basis of Treasury Bonds bearing each of the aforesaid

ISINs, during the relevant period, are annexed are annexed to his Affidavit marked "F3", "G3", "H3", "I3", "J3", "K3" and "L3".

Mr. Alwis stated that, Transfers of Treasury Bonds by Perpetual Treasuries Ltd on a DVF basis, have not been considered.

- 15] Mr. Alwis stated that, the total Profits made by Perpetual Treasuries Ltd from the Sales of Treasury Bonds to Statutory Bodies, including EPF, directly or through Intermediaries, upon each of the aforesaid ISINs have been traced to the extent presently identifiable in terms of the Transactions recorded in the LankaSecure System.

The witness annexed to his Affidavit, marked "F4", "G4", "H4", "I4", "J4", "K4" and "L4", documents which set out these Profits.

Mr. Alwis again stated that, Transfers of Treasury Bonds by Perpetual Treasuries Ltd on a DVF basis, have not been considered when computing these Profits made by Perpetual Treasuries Ltd.

- 16] Mr. Alwis explained that, the method of identifying when Perpetual Treasuries Ltd purchased the Treasury Bonds which have been later sold to Statutory Bodies by Perpetual Treasuries Ltd [either directly or through Intermediaries], has been done on the basis that the Treasury Bonds purchased most recently have been used for each Sale Transaction to a Statutory Body or to the relevant Intermediaries subject to the Price Identification Process set out by him.

Mr. Alwis went on to say that, in most instances, Perpetual Treasuries Ltd has sold Treasury Bonds to the Intermediary and the Intermediary has sold those Treasury Bonds to the Statutory Body, within a short period of time.

Mr. Alwis stated that, it is evident from each such series of Transactions by which Perpetual Treasuries Ltd has sold Treasury Bonds, through Intermediaries, to Statutory Bodies, that, the major portion of the Profit Component accrued to Perpetual Treasuries Limited rather than to the Intermediary.

Mr. Alwis also said that, there are the instances in which the Transactions recorded on the LankaSecure System do not show the Price at which Perpetual Treasuries Limited purchased the relevant Treasury Bonds. Mr. Alwis said that, in these instances, as a general rule, the most recent Price at which Perpetual Treasuries Limited has bought a Treasury Bond with the same ISIN had been used to give a value to the relevant RVF Transactions, when computing the Profit Perpetual Treasuries Ltd made from the Sale of Treasury Bonds bearing that ISIN to Statutory Institutions. Where Perpetual Treasuries Limited has purchased Treasury Bonds with the same ISIN at different Prices on the same day, the highest Price at which Perpetual Treasuries Ltd purchased such a Treasury Bond has been used, when computing the Profit

Perpetual Treasuries Ltd made from the Sale of Treasury Bonds bearing that ISIN to Statutory Institutions. Mr. Alwis stated that, the aforesaid methods of assigning a Price are different to the method of assigning a Price used in the process leading to the selection of the 7 ISINs referred to.

- 17] Mr. Alwis went on to say that, where the Price paid by Perpetual Treasuries Ltd to purchase a Treasury Bond has been below the ILF Price of a Treasury Bond with the same ISIN on the same day, the ILF Price for that Treasury Bond has been used when computing the Profit which Perpetual Treasuries Ltd made from the Sale of Treasury Bonds bearing that ISIN to Statutory Institutions.
- 18] Mr. Alwis also said that, the Data on the LankaSecure System states that Perpetual Treasuries Ltd has purchased some Treasury Bonds at Prices which *ex facie* cannot be compared with the Prices at which Treasury Bonds bearing that ISIN were traded generally in the Secondary Market during the same period. Where such an unrealistically high Price is shown in the LankaSecure System it has not been considered for the purposes of this computation. Instead, the highest and more recent Price at which Perpetual Treasuries Ltd purchased Treasury Bonds with the same ISIN has been used.
- 19] Mr. Alwis emphasised that he had used the aforesaid methodology of pricing RVF Transactions entered into by Perpetual Treasuries Ltd [where the Price at which Perpetual Treasuries Ltd obtained the Treasury Bonds is not recorded on the LankaSecure System] so as to ensure that, Perpetual Treasuries Ltd is given the benefit of the highest Purchase Cost which can be reasonably estimated.
- 20] Mr. Alwis stated that, upon a computation carried out on the aforesaid basis, the Total Net Cash Inflows received [Profits made] by Perpetual Treasuries Ltd from the Sales of Treasury Bonds to the EPF and other Statutory Bodies [directly or through Intermediaries] upon each of the aforesaid ISINs, during the relevant period are estimated to be:
- (i) Upon ISIN LKB03045C013, a Total Net Cash Inflow of Rs. 713,616,476/-, as set out in the document annexed to his Affidavit marked "F5";
  - (ii) Upon ISIN LKB01528I017, a Total Net Cash Inflow of Rs. 1,010,584,701/-, as set out in the document annexed to his Affidavit marked "G5";

- (iii) Upon ISIN LKB02541A016, a Total Net Cash Inflow of Rs. 953,392,950/-, as set out in the document annexed to his Affidavit marked "H5";
  - (iv) Upon ISIN LKB01530E152, a Total Net Cash Inflow of Rs. 2,050,487,788/-, as set out in the document annexed to his Affidavit marked "H5";
  - (v) Upon ISIN LKB01226F014, a Total Net Cash Inflow of Rs. 545,768,186/-, as set out in the document annexed to his Affidavit marked "J5";
  - (vi) Upon ISIN LKB01025C157, a Total Net Cash Inflow of Rs. 92,407,486/-, as set out in the document annexed to his Affidavit marked "K5";
  - (vii) Upon ISIN LKB02035C155, a Total Net Cash Inflow of Rs. 1,291,670,930/-, as set out in the document annexed to his Affidavit marked "L5";
- 21] Mr. Alwis stated that, as computed by him, the estimated Total Net Cash Inflows received [Profits made] by Perpetual Treasuries Ltd from the Sales of Treasury Bonds, during the relevant period, to the EPF and other Statutory Bodies [directly or through Intermediaries] upon Treasury Bonds bearing the aforesaid ISINs [which were issued during the period from 01<sup>st</sup> February 2016 to 31<sup>st</sup> March 2016] aggregate to Rs. 6,657,928,518/- as set out at the end of the document marked "L5".
- 22] Mr. Alwis said that, as he had stated earlier, this amount has been computed partly through an estimate of the Purchase Prices at Perpetual Treasuries Ltd purchased Treasury Bonds where the actual Price is not stated in the Transaction recorded on the LankaSecure System. However, in such cases, the highest reasonable Price has been used as the Price paid by Perpetual Treasuries Ltd [which reduced the estimate of the Profit made by Perpetual Treasuries Ltd in such instances].
- 23] Mr. Alwis also stated that, in instances where Perpetual Treasuries Ltd has transferred Treasury Bonds to other parties on a DVF basis, no value has been assigned to such Transfers, although the Purchase Cost of such Treasury Bonds has been taken into account in the aforesaid computations [which again reduced the estimate of the Profit made by Perpetual Treasuries Ltd in such instances].

He said that, the aforesaid amount of Rs. 6,657,928,518/- will inevitably increase if a value had been allocated to DVF transfers of Treasury Bonds by Perpetual Treasuries Ltd.

- 24] Mr. Alwis emphasized that, as explained by him, the aforesaid methodology used to compute the estimated Total Net Cash Inflows received [Profits made] by Perpetual Treasuries Ltd from the Sales of Treasury Bonds, during the relevant period, to the EPF and other Statutory Bodies [directly or through Intermediaries] upon Treasury Bonds bearing the aforesaid ISINs [which were issued during the period from 01<sup>st</sup> February 2016 to 31<sup>st</sup> March 2016] arrives at the minimum Net Cash Inflows Received [Profits made] by Perpetual Treasuries Ltd.
- 25] Mr. Alwis also annexed to his Affidavit, marked “Z”, a document setting out identified Transactions where the EPF has sold Treasury Bonds and then purchased Treasury Bonds bearing the same ISIN within a short period of time.
- 26] Mr. Alwis filed with his Affidavit, marked “AA”, a document containing an Extract from the Auction System of the CBSL setting out the Purchases by the EPF of Treasury Bonds bearing the aforesaid 7 ISINs at all Primary Auctions held during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016.
- 27] Mr. Alwis filed with his Affidavit, marked “BB”, a document containing an Extract from the LankaSecure System setting out the Prices paid by the EPF, in the Primary Market and in the Secondary Market, for the Purchases of Treasury Bonds bearing the aforesaid 7 ISINs during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016 and the next six months.
- 28] Mr. Alwis filed with his Affidavit, marked “CC”, a document containing an Extract from the LankaSecure System setting out all Sales by the EPF, in the Secondary Market, of Treasury Bonds bearing the aforesaid 7 ISINs, during the same period.
- 29] Mr. Alwis filed with his Affidavit, marked “DD”, a document setting out all REPO Transactions between EPF and Perpetual Treasuries Ltd during the same period.

**Section 5.15** - **Mr. P.W.D.N.R. Rodrigo**

Mr. Rodrigo is the Director of the Domestic Operations Department. He has held this post since 09<sup>th</sup> February 2015.

The relevant evidence of this witness is:



- 1] Open Market Operations of the CBSL and the Intra Day Liquidity Facility offered by the CBSL, come under the purview of the Domestic Operations Department.
- 2] Open Market Operations are governed by Sections 90 to 92 of the Monetary Law Act.
- 3] The witness produced Circular No. 35/01/005/006/04 dated 27<sup>th</sup> January 2004 captioned “Operating Instructions on Open Market Operations of the Central Bank of Sri Lanka in Scripless Government Securities”, which was marked “**C69A**”.

The witness said that Open Market Operations are primarily governed by the provisions of this Circular.

- 4] As set out in this Circular marked “**C69A**”, the Market Operations Committee is required to assess the daily Market Liquidity situation and decide whether to absorb Liquidity from the Market or to inject Liquidity to the Market and then use Open Market Operations to achieve the preferred objective.
- 5] Accordingly, after the Market Operations Committee assesses the daily liquidity position, it will call for Bids for Open Market Operations from the market, when doing so is deemed to be necessary.

A participating institution can submit a maximum of three Bids on one day.

Such Bids have to be submitted through an Electronic Bidding System, before 10am on that day.

- 6] As set out in the Circular, marked “**C69A**” such a Bid must be backed by collateral in the form of the Treasury Bonds or Treasury Bills which are the subject of the transaction. Further, the ISINs of those Treasury Bonds or Treasury Bills must be specified in the Bid.

- 7] Any participating institution which wishes to submit Bids in Open Market Operations, must first enter into a written Agreement with the Monetary Board.

The Agreement entered into between the Monetary Board and Perpetual Treasuries Ltd, was marked “**C69B**”.

- 8] On or about 03<sup>rd</sup> March 2016, Mr. Mahendran had telephoned Mr. Rodrigo and instructed him, that the conduct of Reverse REPO Auctions should be immediately stopped, so as to stop the injection of liquidity into the market through Open Market Operations.

In this connection, Mr. Rodrigo said that the “*Governor telephoned me in the morning, and said to immediately stop conducting of reverse REPO Auctions.*”. He further stated that “*Governor called me and said immediately stop injection of liquidity through reverse REPO Auctions.*”.

- 9] When the Commission of Inquiry asked the witness why Mr. Mahendran had issued such instructions, he said, that Mr. Mahendran had mentioned that the CBSL had earlier increased the Statutory Reserve Requirement in an effort to reduce Liquidity and that the intention of the CBSL was to “*drain liquidity.*” Mr. Mahendran had said that, in this background, Liquidity should not be injected into the market by CBSL and that the CBSL wanted Interest Rates to move up.

In response to a question by learned Deputy Solicitor General whether, “*So, the Governor’s explanation to you, was that he wanted the rates to move up?*”, Mr. Rodrigo replied “*Yes*”.

- 10] Mr. Rodrigo said that, he had been concerned that stopping Reverse REPO Auctions might result in Interest Rates going above the overnight Standing Loan Facility Rate of 8% applicable to the Standing Deposit Facility.

He had later expressed those concerns to Mr. Mahendran, who had said, “*No, doesn’t matter*” and “*You let it go*”.

- 11] Mr. Rodrigo said, that in pursuance of these events, he had sent the Document dated 04<sup>th</sup> March 2016 titled, “MOC Members: OMO conduct of Reverse REPO Auction- Confidential” marked “**C69C**”, to the members of the Market Operations Committee.

- 12] Mr. Rodrigo said that, on 29<sup>th</sup> March 2015 and 30<sup>th</sup> March 2015, Interest Rates in the Call Money Market had moved beyond the “*Upper Bound*” of 8% *per annum* offered on the overnight Standing Loan Facility and reached 8.03% *per annum* and 8.05% *per annum*.

The witness said that, by the end of the month of March, Market Liquidity had decreased to a deficit of Rs. 29 billion and that Interest Rates had climbed to 8.15% *per annum*.

In reply to questions from the Commission of Inquiry, Mr. Rodrigo said, that at the beginning of March, there was excess Liquidity in the Market. He went on to say that, the usual trend is that, towards the middle of March, the public requires money for the New Year and, as a result, Liquidity tightens towards the end of March each year.

- 13] In response to a question by learned Deputy Solicitor General, Mr. Rodrigo observed that Interest Rates had risen above 8% *per annum*, at a time which corresponded with the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

- 14] Mr. Rodrigo said that, in view of the high Interest Rates and the deficit in Liquidity, the Market Operations Committee decided, when it met on 01<sup>st</sup> April

2016, that it was necessary to hold a Reverse REPO Auction and inject Rs. 30 billion to the Market, as set out in the Minutes marked “**C69D**”.

Mr. Rodrigo together with Assistant Governor, Mr. Ranasinghe and Deputy Governor, Dr. Weerasinghe had met Mr. Mahendran on 01<sup>st</sup> April 2016 to convey the view taken by the Market Operations Committee that Open Market Operations have to be conducted urgently to inject liquidity into the market in an attempt to reduce the prevailing Interest Rate.

He said that Mr. Mahendran thought about it and said “*If you wish you can do it.*”. ie: to conduct Reverse REPO Auctions, to inject liquidity into the market.

- 15] Thereafter, a Reverse REPO Auction was announced on 01<sup>st</sup> April 2016. A sum of Rs. 30 billion was offered.
- 16] Bids were received from more than 10 participants, as set out in the Document marked “**C69F**”.
- 17] As set out in the Auction Results marked “**C69G**”, Perpetual Treasuries Ltd had Bids to the value of Rs. 22 billion accepted.
- 18] Perpetual Treasuries Ltd had named three ISINs as the collateral for its Bids.

However, although Bids made by Perpetual Treasuries Pvt Ltd. to the value of Rs. 22 billion had been accepted, Perpetual Treasuries Ltd failed to tender collateral for the entirety of the Bid value of Rs. 22 billion on 01<sup>st</sup> April 2016.

Instead, there had been a shortfall of Treasury Bonds or Treasury Bills to the value of Rs. 11.5 billion in the collateral tendered by Perpetual Treasuries Ltd on 01<sup>st</sup> April 2015.

- 19] Mr. Rodrigo went onto state, that as a result of Perpetual Treasuries Ltd failing to tender collateral to the full value of Rs. 22 billion, the CBSL had been unable to inject Liquidity into the Market amounting to the intended amount sum of Rs. 30 billion on 01<sup>st</sup> April 2016.

Instead, the CBSL had been able to inject only about Rs. 19 billion into the Market, on that day.

- 20] Following the aforesaid default by Perpetual Treasuries Ltd, Mr. Rodrigo had written a letter dated 04<sup>th</sup> April 2016 and marked “**C69K**”, to Perpetual Treasuries Ltd stating that, Perpetual Treasuries Ltd, had failed to honour Reverse REO Transactions against ISIN LKB 011530E152 for the value of Rs. 11.5 billion on 01<sup>st</sup> April 2016 and requiring that a sum of Rs. 7.5 million be paid by way of damages.
- 21] Mr. Rodrigo then referred to the Intra Day Liquidity Facility which has been established in terms of Section 62A(4) of the Monetary Law Act.

Mr. Rodrigo said, that this Facility is governed by Circular No. 35/01/005/0006/5 marked “**C70A**”.

Mr. Rodrigo highlighted the fact that, the purpose of the Intra Day Liquidity Facility is to enable the CBSL, to provide funds to eligible participating institutions “*to facilitate smooth operations of the Real Time Gross Settlement System*”. [The Real Time Gross Settlement System will be referred to as “the RTGSS”].

As stated in the Circular marked “**C70A**”, all participating institutions are required to enter into a written Agreement with the CBSL in order to utilize this Facility.

The Agreement between the CBSL and Perpetual Treasuries Ltd with regard to the Intra Day Liquidity Facility, was marked “**C70B**”.

22] Mr. Rodrigo emphasized that, as set out in Paragraph [14] of “**C70A**”, all participating institutions were required to ensure that sufficient funds were available in their Settlement Accounts in the RTGSS at or before 3.15pm on each business day, to enable settlement of all Intra Day Loans that had been obtained that day.

23] Mr. Rodrigo said that, Perpetual Treasuries Ltd did not settle the entire sum due upon Intra Day Loans obtained by Perpetual Treasuries Ltd on 01<sup>st</sup> April 2016, by the end of that day.

Instead, as set out in the Document marked “**C70C**”, a total sum of Rs.11.061 billion remained outstanding and due for Perpetual Treasuries Ltd, at the close of the day on 01<sup>st</sup> April 2016.

24] Mr. Rodrigo said that, in fact, at around 10.30am or 11am on 01<sup>st</sup> April 2016, a representative of Perpetual Treasuries Ltd had contacted the staff of the Domestic Operations Department and said that, Perpetual Treasuries Ltd was likely to have a difficulty in settling the Intra Day Loans on that day.

In the afternoon of 01<sup>st</sup> April 2016, Mr. Kasun Palisena of Perpetual Treasuries Ltd had telephoned Mr. Rodrigo to inquire whether the Bid and the collateral could be “*split*”. Mr. Rodrigo had been informed by the staff of his Department that, it was not possible to do that.

Even by 4.15pm on 01<sup>st</sup> April 2015, full settlement had not been made Perpetual Treasuries Ltd and the sum of Rs. 11 billion remained unpaid.

Mr. Rodrigo had informed Assistant Governor, Ms. Mampitiya and Deputy Governor, Mr. Samarasiri of this position. Mr. Samarasiri was overlooking the Domestic Operations Department at that time, since Dr. Weerasinghe was abroad.

25] The Director of Payments and Settlements had officially communicated the default to Mr. Rodrigo by the Memo dated 01<sup>st</sup> April 2016, marked “**C70D**”.

26] Mr. Rodrigo said that, he then telephoned Mr. Mahendran, who was at that time, out of Colombo, to advise him of the default. Mr. Rodrigo said that he informed Mr. Mahendran that *“one of the institutions has not settled their transactions with us”*. Mr. Mahendran had then asked, *“which Bank ?”*. Mr. Rodrigo had said *“It’s not a Bank. It’s a Primary Dealer sir.”*. Mr. Mahendran had asked, *“Which one?”*. Mr. Rodrigo had replied, *“Perpetual Treasuries”*. Mr. Mahendran’s response had been, *“Oh, you know my involvements with the Perpetual Treasuries. And why don’t you independently decide. But tell me or inform me before you take any decision.”*

When the Commission of Inquiry asked Mr. Rodrigo whether Mr. Mahendran told him what to do, he said that Mr. Mahendran had not told him what to do.

27] Mr. Rodrigo added that, at the time he spoke with Mr. Mahendran, he had miscalculated the penalty payable by Perpetual Treasuries Ltd and thought that a penalty of Rs. 1.2 billion would have to be paid to the CBSL by Perpetual Treasuries Ltd. He said he informed Mr. Mahendran that, Perpetual Treasuries Ltd would be liable to pay this penalty of Rs. 1.2 billion. When the Commission of Inquiry asked what Mr. Mahendran’s reaction, Mr. Rodrigo said that, Mr. Mahendran had said, *“My Gosh! ! And that is what he said, you take independent decision, inform me let me know before you take decision let him know.”*

28] Mr. Rodrigo said that on the next day, Mr. Arjun Aloysius of Perpetual Treasuries Ltd had telephoned him and wanted to meet urgently.

Mr. Rodrigo had told Mr. Aloysius to meet him at 2pm at the CBSL building. Mr. Rodrigo had then asked his Additional Director, Deputy Director and two staff officers to be present at this meeting.

29] Mr. Rodrigo said that when he was on his way to CBSL, Mr. Mahendran called him on his mobile phone and the following conversation transpired: Mr. Mahendran had said *“Rodrigo, are you meeting staff from Perpetual Treasuries ?”*, to which Mr. Rodrigo said *“Yes. They called me. They wanted to meet me. So I am meeting them at the Bank.”* Mr. Mahendran had then said, *“Before you meet them, I am at the Bank, come and call me.”*

30] Mr. Rodrigo said that when he went into the Domestic Operations Department, Mr. Palisena, Mr. Aloysius and another officer from Perpetual Treasuries Ltd had come there. Mr. Rodrigo had asked them to wait for a while.

31] While the representative of Perpetual Treasuries Pvt Ltd remained in the Domestic Operations Department, Mr. Rodrigo and the officers of the Domestic Operations Department had gone up to meet Mr. Mahendran. Mr. Mahendran

had only asked them to explain what a “gridlock” is. One of the officers of the Domestic Operations Department had explained the nature of a “gridlock” and explained that, the situation which had arisen what was not a “gridlock” but a discrepancy between Delivery vs. Payment. Mr. Rodrigo said that Mr. Mahendran did not make any inquiries thereafter.

When the Commission of Inquiry asked Mr. Rodrigo whether Mr. Mahendran gave any instruction to him “*on how to handle this*”, the witness replied “No.”.

- 32] In reply to learned Deputy Solicitor General, who asked Mr. Rodrigo whether he had informed Mr. Mahendran that he had made a miscalculation when he had earlier said the penalty was about Rs. 1.2 billion, Mr. Rodrigo said that he had informed Mr. Mahendran about the miscalculation and that, the penalty would be Rs. 22 million.
- 33] In response to a question from the Commission of Inquiry, Mr. Rodrigo stated that, Mr. Mahendran had not asked any questions regarding the calculation of the penalty.
- 34] Thereafter the witness and his officers had gone back to the Domestic Operations Department and informed the representatives of Perpetual Treasuries (Pvt) Ltd that, a penalty of Rs. 22 million would be charged.
- 35] In response to a question by learned Deputy Solicitor General, Mr. Rodrigo stated that he is aware of only very few previous instances of a default in settlement of Loans taken on the Intra Day Liquidity Facility or a failure to honour a Reverse REPO transaction and that those instances concerned relatively small sums. In this connection, the witness produced the Document marked “**C70E**”.
- 36] Mr. Rodrigo said that on 04<sup>th</sup> April 2016, Perpetual Treasuries Ltd had also been incorrectly charged a sum of Rs. 88.133 million, due to an error. He said that, therefore, the Additional Director of the IT Department had reversed that Debit Entry.
- 37] With regard to the meeting of the Market Operations Committee held on 26<sup>th</sup> February, Mr. Rodrigo said, that he participated in that meeting as he was a member of the Market Operations Committee.
- 38] He stated that Mr. Mahendran came into the room about one minute after the meeting commenced and sat down. Mr. Rodrigo said that Mr. Mahendran then stated “*we want to raise the Interest Rate. So that we have to remove the special deposit rate of 5%.*”. Mr. Rodrigo said that Mr. Mahendran then addressed him and said “*Rodrigo, immediately remove this.*” .



In response to a question from the Commission of Inquiry, Mr. Rodrigo stated that he did not say anything in opposition but only stated that a Press Release would have to be issued, if such a change was to be made.

- 39] In response to a question by the Commission of Inquiry as to whether there was a *“clear instruction given by Mr. Mahendran, the then Governor to remove the 5% rate?”*, the witness states *“Yes.”*.

Mr. Rodrigo added that Mr. Mahendran gave an explanation for this instruction and said that this was being done because, *“We have to attract foreigners to the bond market and also there is a 30 year bond coming now.”*.

- 40] Mr. Rodrigo also said Mr. Mahendran stated that, Interest Rates should be pushed up to the Interest Rates that prevailed prior to September 2014.
- 41] Mr. Rodrigo said that Mr. Mahendran had also said to him, *“Rodrigo you aggressively absorb all liquidity from the market.”* The witness added that it was *“another way of saying push up the Interest Rate. When you take all the money or any commodity, the price go up.”*.

- 42] Mr. Rodrigo stated that in pursuance of the instructions given by Mr. Mahendran, he prepared the draft Minute marked **“C60B(iii)”** and submitted it to Assistant Governor, Mr. Karunatilake and Deputy Governor, Weerasinghe for approval and to be forward to Mr. Mahendran.

Mr. Rodrigo stated that, neither the Assistant Governor and Deputy Governor had made any objection to the draft Minute other than for the Deputy Governor stipulating that the Minute should clearly specify that the change will come into effect from 02<sup>nd</sup> March 2015, which was the next working day.

- 43] Mr. Mahendran had approved the draft Minute.

Thereafter, the email marked **“C60B(4)”/“C60B(5)”**, had been sent to all Market Participants giving notice of the change. This email had been dispatched by the Domestic Operations Department at 4.27pm on 27<sup>th</sup> February 2015.

- 44] Mr. Rodrigo said that, there was a *“sharp increase”* in Interest Rates on 02<sup>nd</sup> March 2015 and said that, to his recollection, Interest Rates moved by about 100 basis points from 6.15% *per annum* to 7.10% *per annum*.
- 45] With regard to the meeting of the Tender Board held on 27<sup>th</sup> February 2015, Mr. Rodrigo said that he participated in that meeting, since he was a member of the Tender Board.

Mr. Rodrigo said that only one Option Sheet was made available at to the Tender Board meeting and that he did not receive any other Option Sheet.

Mr. Rodrigo said that Mr. Ratnayaka was “*more vociferous*” in his objections to the acceptance of Bids to the value of Rs.10.058 Billion.

Mr. Rodrigo stated that, his impression was that Mr. Samarasiri was also not in favour of accepting Bids to the value of Rs. 10.058 billion.

The witness stated that Mr. Ratnayaka recommended that the members of the Tender Board meet Mr. Mahendran and clarify the instructions said to have been given by Mr. Mahendran.

- 46] Mr. Rodrigo stated that, after Mr. Samarasiri left the meeting and returned a few minutes later, Mr. Samarasiri said that, Mr. Mahendran has instructed that Bids to the value of Rs. 10.058 billion be accepted. Mr. Rodrigo’s recollection is that Mr. Samarasiri said “අපිට ගන්න වෙනවා”.

Mr. Rodrigo said that Mr. Samarasiri did not state the reasons adduced by Mr. Mahendran to accept Bids to the value of Rs.10.058 billion.

- 47] Mr. Samarasiri had then started to dictate the Minutes of the meeting to Dr. Aazim in the Conference Room.

- 48] Mr. Rodrigo stated that no member of the Tender Board had indicated their wish for their opposition to the decision, to be recorded in the Minutes.

- 49] Mr. Rodrigo said, that all the members of the Tender Board remained in the room till the dictation of the Minutes was completed and that they then went back to their offices, other than Dr. Aazim, who went in to Mr. Samarasiri’s Secretary’s room to prepare the Minutes.

- 50] In response to a Question by Mr. Chanaka de Silva, Attorney-at-Law, who represented Mr. Mahendran, Mr. Rodrigo said that, on 03<sup>rd</sup> March 2016, when Mr. Mahendran instructed him to stop the Reverse REPO Auctions, there was a sum of around Rs. 50 billion excess liquidity in the market, which Mr. Mahendran considered should be mopped up. Mr. Rodrigo agreed that the increase of the Reserve Requirement introduced a few months earlier, had been for the purpose of mopping up excess liquidity.

- 51] In response to a Question by Mr. Chanaka de Silva, Attorney-at-Law, Mr. Rodrigo acknowledged that the Sri Lanka Rupee had depreciated against the US Dollar in the month of February 2015 and that there had been a significant depreciation in the One Week Forward Rate between 24<sup>th</sup> February 2016 and 27<sup>th</sup> February 2015. When Mr. Rodrigo was asked, “*So, would you agree with me that the Dollar was strengthening against the Rupee rapidly ?*”, Mr. Rodrigo replied, “Yes.”

- 52] In reply to Mr. Chanaka de Silva, Attorney-at-Law, Mr. Rodrigo also admitted that, between 25<sup>th</sup> February 2015 and 26<sup>th</sup> February 2015, the Net Open Position had increased by almost USD 13 million on a single day. Mr. Rodrigo acknowledged that, that in such a situation, a need to sell US Dollars arises. Mr. Rodrigo also agreed that on 27<sup>th</sup> February 2015, the excess Liquidity in the Market was almost Rs. 56 billion.
- 53] In reply to a Question by Mr. Chanaka de Silva, Attorney-at-Law, as to whether Mr. Mahendran expressed concern about the depreciation of the Sri Lanka Rupee against the US Dollar when he visited the Market Operations Committee meeting on 27<sup>th</sup> February 2015, Mr. Rodrigo stated that he cannot recollect Mr. Mahendran referring to the Foreign Exchange Market and said, *“He did not touch on the foreign exchange market.”*

**Section 5.16** - **Mr. D.E.W. Gunasekara**

Mr. Gunasekera was a Member of Parliament in the Seventh Parliament and was the Chairman of the Special Sub Committee on Public Expenditure [COPE], of the Seventh Parliament.

The relevant evidence of the witness is:

- 1] In pursuance of a Motion submitted to Parliament by several MPs and included in the Order Paper issued on 08<sup>th</sup> May 2015, the Hon. Speaker directed, on 20<sup>th</sup> May 2015, that COPE should carry out a full investigation into the issuance of a 30 Year Treasury Bond, which had taken place on 27<sup>th</sup> of February 2015.
- 2] In pursuance thereof, on 22<sup>nd</sup> May 2015, the COPE had appointed a Special Sub Committee of 13 members of the COPE to carry out a full investigation into the issuance of a 30 Year Treasury Bond, which had taken place on 27<sup>th</sup> of February 2015.
- 3] This Special Sub Committee had been chaired by the witness.
- 4] The Special Sub Committee had held 14 meetings and evidence had been led on 11 of these days. 42 witnesses had testified before the Special Sub Committee during the period from 22<sup>nd</sup> May 2015 to 26<sup>th</sup> June 2015.
- 5] At this stage, the Special Sub Committee required to hear the evidence of many more witnesses in order to complete the investigation and submit its REPOrt.
- 6] However, in July 2015, several Members of Parliament had requested that, the Report of the Special Sub Committee be submitted. In view of these requests,

the Hon. Speaker had requested that, at least, an Interim Report be submitted at this stage.

- 7] In view of the Hon. Speaker's request, the witness drafted an Interim Report in consultation with the Auditor General and his team which had assisted the Special Sub Committee although the witness was of the view that further inquiries were necessary. In this connection, the witness stated, "විමර්ශන අවසන් නෑ. නව කල් යනවා. කල් යන එකක් කියලා. එහෙත් එතුමා ඉල්ලා හිටියා අතුරු වාර්තාවක් හෝ ඉදිරිපත් කරන්න කියලා."
- 8] The witness had convened a sitting of the Special Sub Committee on 25<sup>th</sup> of July 2015 and 26<sup>th</sup> of July 2015, to discuss the draft Interim Report.
- 9] However, when the Special Sub Committee met on the aforementioned days to discuss the draft Interim Report, all the members of the Special Sub Committee were not present and, at the last stages, only 7 members had been present.
- 10] Some members had objected to the submission of an Interim Report and stated that only a complete Report should be submitted.
- 11] The Special Sub Committee could not reach a unanimous decision on whether or not to submit an Interim Report.
- 12] Therefore, the Interim Report could not be submitted to the Honorable Speaker and the draft Interim Report remains in the custody of the witness.
- 13] The Interim Report was not presented to Parliament, since the Seventh Parliament was dissolved with effect from 26<sup>th</sup> July 2015 and a General Election was held on 17<sup>th</sup> August 2015.
- 14] After the General Election, the Eighth Parliament was convened on 01<sup>st</sup> September 2015.
- 15] The Proceedings and Evidence of the witnesses before the COPE Special Sub Committee of the Seventh Parliament which was chaired by the witness, are included in the Report of the COPE of the Eighth Parliament.

**Section 5.17**

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**Ms. Kalyanee Gunatilleke**

Ms. Gunatilleke is the Director of the Internal Audit Department of the CBSL. She served as the Director of the Human Resources Department of the CBSL from 01<sup>st</sup> July 2013 up to 18<sup>th</sup> June 2015.

The relevant evidence of this witness is:

- 1] Ms. Gunatilleke stated that there was no formal Transfer Policy followed in the CBSL with regard to the transfer of Heads of Departments. She added that *“there is no barrier for the management to transfer any of them depending on the circumstances.”*
- 2] The witness said that, on 04<sup>th</sup> February 2015, Mr. Mahendran had requested the Human Resources Department, through Deputy Governor, Weerasinghe, to provide comprehensive information with regard to the Staff Structure, the number of Staff, details of the Executive Staff etc.
- 3] On 05<sup>th</sup> February 2015, Mr. Mahendran’s Secretary had requested Ms. Gunatilleke to meet Mr. Mahendran with a list of the Heads of Departments at that point in time.

Ms. Gunatilleke had met Mr. Mahendran on the same day with a list of the Heads of Departments, as at 05<sup>th</sup> February 2015, which was marked **“C73”**.

- 4] Mr. Mahendran had examined the list and said that *“it is required to have a reshuffle”* of Heads of Department.
- 5] Mr. Mahendran had then instructed that 14 out of the 29 Heads of Departments, be transferred.
- 6] Ms. Gunatilleke said, that one of the transfers instructed by Mr. Mahendran was the transfer of Ms. Seneviratne from the Currency Department to the PDD.
- 7] Ms. Gunatilleke said, that when she saw that intended transfer of Ms. Seneviratne, she felt that, Ms. Seneviratne did not have *“the particular technical experience in the Public Debt Department.”* and the witness had said to Mr. Mahendran, *“Governor, Mrs. Seneviratne, will not be suitable, she is very good officer, she is very good manager who can lead teams. Then I said she had no previous experience in the particular area, so I requested him to re-think about it.”*

The witness said that Mr. Mahendran responded saying, Ms. Seneviratne has worked in the EPF Department and that she would be able to handle the work required in the PDD. Mr. Mahendran had also said that, *“Dr. Aazim is there so he (she) will be able to handle it with the help of Dr. Aazim.”*

- 8] After the meeting Mr. Mahendran ended, Ms. Gunatilleke had gone to Deputy Governor, Weerasinghe’s office and informed him of the proposed transfers.

Dr. Weerasinghe had said that *“if Governor wishes to do so please go and arrange.”*

- 9] Ms. Gunatilleke stated that she, along with Deputy Governor, Weerasinghe, had met Mr. Mahendran on the 06<sup>th</sup> of February 2015 and urged that Ms. Seneviratne not be transferred to the PDD.
- 10] When the Commission of Inquiry asked whether Ms. Gunatilleke and Ms. Seneviratne were friends and whether Ms. Seneviratne had been happy in the Currency Department, the witness replied that they had been friends and had been at University together and that Mrs. Seneviratne was *“very happy”* in the Currency Department.  
The witness added that, Ms. Seneviratne *“is a very experienced and she is a very good officer, she can manage teams, she can take the team spirit very high when she works, so she is very good at operational areas.”*
- 11] Ms. Gunatilleke stated that on the 10<sup>th</sup> of February 2015, Mr. Mahendran effected a reallocation of the duties of Assistant Governors and Deputy Governors.
- 12] Ms. Gunatilleke stated that the transfers and the re-allocation of duties effected on 09<sup>th</sup> February 2015 and 10<sup>th</sup> February 2015, *“really shocked”* the senior management of the CBSL. She said that, several Senior Officers had discussions and meetings regarding *“undergoing this kind of drastic change in the bank.”* Ms. Gunatilleke said, that *“we felt like it’s a mess.”* She added, *“So we were not happy. We were not happy about this.”*
- 13] When the Commission of Inquiry asked her what Mr. H.A. Karunaratne’s attitude was, she stated that, *“he was also unhappy.”*
- 14] When the Commission of Inquiry asked the witness whether she considers it correct to say that, *“Mr. Mahendran wanted to introduce a new organizational structure?”*, the witness replied *“Yes.”*
- 15] When the Commission of Inquiry asked the witness whether there was a culture at the CBSL, of paying utmost reverence to the Governor, and following his instructions to the letter without questioning them, she replied, *“Normally when Governor asked to do something we do it.”*

When the Commission of Inquiry asked, *“would you agree with me when I say that there was perhaps great reverence that placed to the office of the Governor by Central Bank officials?”*, the witness stated, *“Yes. We respect... That is the culture.”*



- 16] In reply to a Question from Mr. Chanaka de Silva, Attorney-at-Law, representing Mr. Mahendran, Ms. Gunatilleke stated that the Governor had instructed her to prepare the format of the new Organizational Structure and to give it to him.
- 17] In reply to a further Question from Mr. Chanaka de Silva, Attorney-at-Law, Ms. Gunatilleke said that Mr. Mahendran established a Risk Management Department and a Regulatory and Compliance Department. She said that, before that, the CBSL did not have specific Departments to carry out these functions.
- 18] In reply to another Question from Mr. Chanaka de Silva, Attorney-at-Law, Ms. Gunatilleke stated, "*Mrs. Seneviratne is a good officer*". She went on to say that with regard to Ms. Seneviratne, "*She is an officer who can manage teams, can handle managerial activities, operational functions because she has been handling operational activities with a large. She can manage teams very well because she is a friendly officer, because one can't say no to her because when she asked to do something because she was a good leader I must say.*".
- 19] In reply to a Question by the Commission of Inquiry, Ms. Gunatilleke said that, she thought that Ms. Seneviratne could manage the PDD, but that she would take some time to learn the work. The witness said, "*she can do it in the long run, but not in the short run.*". She added that she personally thought that Ms. Seneviratne, "*will be miserable.*" in the PDD.
- 20] In response to a Question by the Commission of Inquiry, the witness stated that the previous Superintendent of the PDD, Mr. Dhammika Nanayakkara was frequently out of the country, and that Ms. Mutugala and Dr. Aazim had acted for the Superintendent of the PDD during those times. The witness said that, Ms. Mutugala had worked in the PDD for many years and that she was an experienced officer.
- 21] In reply to a Question from Mr. Chanaka de Silva, Attorney-at-Law, Ms. Gunatilleke stated that Mr. S.S. Ratnayaka, who had been appointed as the Assistant Governor in charge of the PDD in the month of February 2015, had previous experience as the Superintendent of the PDD.
- 22] Ms. Gunatilleke said that Mrs. Seneviratne was attached to the EPF as Deputy Superintendent and Additional Superintendent from January 2007 up to April 2014.
- 23] In response to a Question from Mr. Chanaka de Silva, Attorney-at-Law, the witness stated that Mr. Mahendran paid much attention to the training, development and capacity building of officers of the CBSL.

Mr. Karunatillake served as an Assistant Governor of the CBSL from 28<sup>th</sup> August 2014 until he retired from service on 16<sup>th</sup> April 2016. He had been on leave prior to retirement from 16<sup>th</sup> January 2016 onwards.

The relevant evidence of this witness is:

- 1] From 09<sup>th</sup> February 2015 until he went on leave prior to retirement on 16<sup>th</sup> January 2016, Mr. Karunatillake served as the Assistant Governor overseeing the Economic Research Department, Domestic Operations Department, Statistics Department and the Human Resources Department.
- 2] With regard to the transfers and reallocation of duties which took place on the 09<sup>th</sup> and 10<sup>th</sup> of February 2015, Mr. Karunatillake said that he and several other senior Officers considered that these transfers were “*shocking*” and that they felt that Mr. Mahendran “*might have been misinformed about the competencies of the officers.*”.

The witness and some other senior officers had requested a meeting with Mr. Mahendran to discuss these transfers and he had agreed. Mr. Karunatillake said that at this meeting, Mr. Mahendran welcomed them and they had had a cordial discussion. The witness said that he and the other senior officers had requested Mr. Mahendran to reconsider the transfers. Mr. Mahendran had said that he would consider making some changes in the future.

- 3] With regard to the Market Operations Committee, the witness stated, “*Market Operations Committee your Honour, meets every day and that is the operational arm of the Monetary Policy because once the Monetary Policy is decided by the Monetary Board with the recommendation of the Monetary Policy Committee we have to translate that into practice through the open market operations on daily basis by observing the liquidity situation in the market. Now we meet daily and actually there are two stages. The Monetary Policy decisions are taken by the Monetary Board with the recommendation of the Monetary Policy Committee after analyzing the real sector economy, the finance sector, monetary sector and also the external sector developments then once it is approved that has to be translated into practice. The practical side is done through the open market operations. And at the same time, the daily movement of exchange rate has to be managed by the Central Bank intervention. The Market Operations Committee is responsible for carrying out those two functions and then recommending to the Governor for approval.*”.

4] Mr. Karunatilake stated that although, as the Assistant Governor supervising the Domestic Operations Department, he was the Chairman of the Market Operations Committee, the meetings of the Committee were chaired by Deputy Governor, Weerasinghe in the month of February 2015, until the witness got the *“competency to manage it.”*

5] With regard to the meeting of the Market Operations Committee held on 27<sup>th</sup> February 2015, Mr. Karunatilake said that, he got to the Conference Room about 5 to 7 minutes after the meeting had commenced and that he had been late for the meeting.

He had been told by the members of the Market Operations Committee, that Mr. Mahendran had previously visited the meeting and left.

The witness had been told by the members of the Market Operations Committee, that, while Mr. Mahendran was at the meeting, he had instructed Mr. Rodrigo *“to remove the special rate of 5% and also to absorb liquidity in the market.”*

6] Mr. Karunatilake said that, the aforesaid instructions given by Mr. Mahendran had not been further discussed by the Market Operations Committee during the time the witness was present at the meeting.

7] Mr. Karunatilake stated that, later that day, Mr. Rodrigo brought the draft Minute marked **“C60B(iii)”** to him for approval and the witness had approved it and submitted it to Deputy Governor, Weerasinghe.

8] With regard to the meeting of the Tender Board held on 27<sup>th</sup> February 2015, Mr. Karunatilake said that, only the Option Sheet which recommended the acceptance of Bids to the value of Rs.10.058 billion, was tabled at the meeting.

9] Mr. Karunatilake stated that, Mr. S.S. Ratnayaka had asked the officers of the PDD, why they recommended the acceptance of Bids to the value of Rs. 10.058 billion, when the amount offered was Rs. 1 billion.

The witness stated that Mr. Ratnayaka had commented, *“this is absurd, because it is going to have a shock in the market.”*

He also said that, at this point, the officers of the PDD had stated that they had previously recommended accepting Bids to the value of Rs. 2.608 billion and had referred to the original Option Sheet, which Mr. Karunatilake had then seen.

10] Mr. Karunatilake said, that he did not comment, since *“I didn’t have that much of experience.”*

- 11] The witness stated that, during the meeting, only Mr. Ratnayaka objected to the acceptance of Bids to the value of Rs. 10.058 billion and that the witness does not remember any other member of the Tender Board voicing any objection.

However, the witness said that, he *“felt everyone was in agreement”*, with Mr. Ratnayaka’s position.

The witness said that Mr. Ratnayaka had then suggested that the members of the Tender Board meet Mr. Mahendran and explain the dangers of accepting a large number of Bids.

- 11] Mr. Karunatillake said that when Mr. Samarasiri tried to contact the Governor on the intercom and failed to do so, he had said, *“OK I will contact him”* and gone out of the Conference Room.

- 12] Mr. Samarasiri had returned a short while later and said, *“අපිට මේක ගන්ඩ වෙනවා”* and added, *“because the Governor insisted on that.....”*.

- 13] When the Commission of Inquiry asked Mr. Karunatillake whether Mr. Samarasiri had stated any reasons adduced by Mr. Mahendran for accepting Bids to the value of Rs.10.058 billion, the witness only said that Mr. Samarasiri had mentioned that Mr. Mahendran informed that the *“Government need some funds that’s why he is insisting on us to accept this.”*

However, Mr. Karunatillake later said that Mr. Samarasiri gave two other reasons, but that he cannot remember what they were.

- 14] Mr. Karunatillake said that Mr. Ratnayaka had then said, *“මේ සර් අපිට රෙදි නැතුව තමයි යන්න වෙන්නේ.”*

- 15] Mr. Karunatillake said that Mr. Samarasiri had then started dictating the Minutes to Dr. Aazim. While this process was taking place, the witness had left the meeting together with Mr. Ratnayaka.

- 16] When the Commission of Inquiry asked Mr. Karunatillake why he retired prematurely, the witness said that Mr. Mahendran, *“was not in good terms, like with me, then I had by that time had completed my 30 years of service. So I thought I should leave. That was the reason.”*

Mr. Karunatillake went on to say that he was unhappy about the actions of Mr. Mahendran with regard to the transfer and reallocation of duties of senior Officers and Mr. Mahendran’s proposal to bring in Consultants.

Mr. Karunatillake said that, the other Assistant Governors, including Mr. Ratnayaka, were *“deeply unhappy about the actions of the Governor”*, and that, *“even sometimes some were saying whether to leave the bank.”*

Dr. Wijewardena joined the CBSL as a Staff Officer in 1973. He retired in 2009 upon reaching 60 years of age. During his 36 years in the CBSL, Dr. Wijewardena served, *inter alia*, in the Banking Department, Economic Research Department, Currency Department, Statistics Department, the EPF and the Department of Rural Credit. He was promoted to the rank of Deputy Governor in July 2000 and continued in that position till he retired in 2009. He served under 7 Governors of the CBSL.

Dr. Wijewardena has an Honours Degree in Public Administration from the University of Sri Jayawardenapura and a Masters in Economics from the University of York. He was recently conferred an Honorary Doctorate by the Northumbria University. He is a Fellow of the Institute of Bankers of Sri Lanka.

The Commission of Inquiry decided to summon him and hear his evidence: since he would have, by his long service in the CBSL, gained an extensive knowledge of the workings of the CBSL and may be reasonably considered to have expertise and experience in this field; since he assisted the “Pitipana Committee” and the COPE of the Seventh Parliament in their inquiries; and also because the Commission of Inquiry is aware, as a result of Dr. Wijewardena’s prolific writings on matters relating to Economics, Banking and the Financial System, which are published in the newspapers and his frequent appearances on TV channels, that, Dr. Wijewardena has made his own study of some of the matters which fall within the Mandate of this Commission of Inquiry.

While we are aware that Dr. Wijewardena has his personal views on some of the matters which are the subject of this Commission of Inquiry and that those views are not necessarily correct, we thought that it would be useful for us to hear those views as part of our effort to ascertain the facts relating to matters which are the subject of our investigation and inquiry and to assess the significance of those facts.

In these circumstances, we will consider the evidence of Dr. Wijewardena, solely from the perspective that his statements are only an expression of his personal views.

We will also keep in mind the fact that, he has no personal knowledge of the events which took place in the CBSL during the period which is the subject of our Mandate.

We will also keep in mind the fact that, Dr. Wijewardena has publicly stated his views on some of the matters which are the subject of our Mandate, and that, therefore, quite naturally, he may be influenced by the positions he has taken publicly, when he gives evidence before us.

The relevant evidence of this witness is:

- 1] Dr. Wijewardena was appointed by the Hon. Prime Minister to advise the “Pitipana Committee” in its inquiries. He had advised the Members of the

“Pitipana Committee” on the Treasury Bond Market and guided them in the preparation of relevant Questions that should be asked from the witnesses.

- 2] At the request of Mr. D.E.W. Gunasekara, Dr. Wijewardena had advised the Special Sub Committee of the COPE of the Seventh Parliament, with regard to the mechanisms and technicalities involved in the issuance of Treasury Bonds and with regard to the evidence that should be obtained. In addition, he had provided the Sub Committee with his analysis of the evidence heard by the Sub Committee.
- 3] From 2000 to 2009, Dr. Wijewardena had served as the Chairman of the Tender Board which decided on the issuance of Treasury Bonds, during his tenure as a Deputy Governor. Dr. Wijewardena said, that the Tender Board comprises of senior officers of the CBSL and that, as a result, there is an *“accumulation of various expertise”* within the Tender Board. He said that the decision-making process of the Tender Board, is usually consensual.
- 4] When learned Senior State Counsel asked Dr. Wijewardena for his views on the likely rationale for offering only a sum of Rs. 1 billion at the Treasury Bond Auction held on 27<sup>th</sup> February 2015, when the requirement of funds on the settlement date was Rs. 13.55 billion, Dr. Wijewardena said that. in his opinion, the rationale would have been that there was likely to be *“no appetite”* from *“ordinary investors”* for a 30-year Treasury Bond and that only Pension Funds, Provident Funds and Insurance Funds had an appetite for such long-term Treasury Bonds. Dr. Wijewardena went on to say that, for these reasons, the CBSL would have decided to issue only the *“minimum amount”* *“in order to satisfy that requirement as well as to establish the Yield Curve for a thirty-year period. That is why it is a prudent decision.”*
- 5] Dr. Wijewardena said that a Primary Dealer would usually purchase a 30 Year Treasury Bond only with a view of selling it, at a profit, in the Secondary Market.
- 6] Dr. Wijewardena stated that during his time as the Chairman of the Tender Board, no Governor had intervened in the decision-making process of the Tender Board.
- 7] Dr. Wijewardena expressed the view that, the Governor has little discretion to vary the decision of the Tender Board and that, instead, the Governor’s function was to *“ministerially approve”* the decision of the Tender Board.
- 8] Dr. Wijewardena expressed his view that, it was not prudent for the CBSL to raise the entire requirement of Rs. 13.55 billion which was required on 02<sup>nd</sup> March 2015, by way 30 Year Treasury Bonds, since that would result in the Government committing itself to pay Interest at a Rate of 12.5% *per annum* for



a period of 30 years. He stated that, there were various options which could have been used instead.

As one option, Dr. Wijewardena identified the method of immediately borrowing the required funds by drawing on the Government's Overdraft with the Bank of Ceylon, which had excess Liquidity on that day. Dr. Wijewardena said that, thereafter, the PDD could have issued a Treasury Bond with a short maturity period and used the funds raised on that Treasury Bond, to repay the sum drawn on the Overdraft.

Dr. Wijewardena said that, another option, was for the Domestic Operations Department to enter into a REPO transaction with the EPF, to obtain the required funds.

Finally, he stated that, there was also the alternative of raising the balance fund requirement by accepting Direct Placements.

- 9] Dr. Wijewardena expressed his view that the immediate loss incurred as a result of the acceptance of Bids to the value of Rs. 10.058 billion at the Auction held on the 27<sup>th</sup> February 2015, was Rs. 532 million, as he had stated before the COPE of the Seventh Parliament. The witness said that he arrived at that sum by calculating the difference between the price at which Treasury Bonds up to the value of Rs. 2.608 billion had been accepted and the price at which the remainder of Rs. 10.058 billion had been accepted.

Dr. Wijewardena went on to say that there was a further loss incurred over the entirety of the 30 Year period of the Treasury Bond on account of the difference between the cost of paying the Coupon Rate of 12.5% *per annum* over that period, instead of paying a Coupon Rate of 7.75% *per annum* on a two-year Treasury Bond. In this connection Dr. Wijewardena said, *"What I did was I calculated the immediate loss as I have explained here. Then the loss during the next thirty year period to the Government of Sri Lanka by paying interest at 12.5 percent on a thirty year Treasury Bond whereas it could have raised that money at around the prevailing market Interest Rate of 7.75 with a coupon rate of 7.75 for a two year Treasury Bond."* He went on to state that, on the aforesaid basis, the loss over the 30-year period was Rs. 10 billion.

In this connection Dr. Wijewardena produced the document marked "**C77**" which sets out his computation of the aforesaid losses. It has to be noted that, "**C77**" is only a computation made by Dr. Wijewardena of a loss which he thinks was incurred. It is only an estimate prepared by him, according to his views and upon several assumptions made by him.

- 10] Dr. Wijewardena stated, that, in his view, the decision taken on 27<sup>th</sup> February 2015, to remove the 5% *per annum* Interest Rate on the overnight Standing

Deposit Facility, would have impacted the Short-Term Market and resulted in Call Money Rates increasing on 02<sup>nd</sup> March 2015.

In his view, the removal of the 5% *per annum* Interest Rate did not have a significant impact on the Long Term Treasury Bond Market.

However, he went on to say that when the impact on the Short-Term Market Interest Rates caused by the removal of the 5% *per annum* Interest Rate on the overnight Standing Deposit Facility, was coupled with the impact on the Long-Term Market caused by the high Yield Rates at which the 30 Year Treasury Bond had been issued on the same day, this resulted in the Yield Curve sliding upwards and an upward movement in the whole Interest Rate structure.

He went on to state that the cumulative effect was a “*shock*” to the market.

- 11] Dr. Wijewardena said that, Interest Rates had subsequently moved downwards in April 2015 when the Interest Rate on the overnight Standing Deposit Facility was reduced to 6% *per annum*, by the Monetary Board on 11<sup>th</sup> April 2015.
- 12] The witness also stated that, he was of the view that, there was no need to increase Interest Rates in February 2015, since core Inflation then was only about 2.5% and this meant that there was no need to tighten Monetary Policy by increasing Interest Rates.

When learned Senior State Counsel asked whether the increased Interest Rates would have resulted in eliminating excess Liquidity in the market, Dr. Wijewardena expressed his view that, instead of increasing Interest Rates, it would have been better to reduce the Interest Rate on the overnight Standing Deposit Facility and, thereby, compel Commercial Banks to lend excess Liquidity to productive sectors in the economy instead of parking excess money in the overnight Standing Deposit Facility. In this connection Dr. Wijewardena said, “..... *so we have to force these guys to actually lend to the market. To do that we have to you know penalize them. To penalize we have to cut the Interest Rate rather than to increase the Interest Rate.*”.

- 13] When learned Senior State Counsel asked Dr. Wijewardena what in his view was the “*logic to this decision*” of removing the 5% *per annum* Interest Rate on the overnight Standing Deposit Facility could have been, Dr. Wijewardena replied, “*What I can comment Your Honour is that the unintended consequence of that..... I don't know the objective of the Governor when he made that decision. The unintended consequences was that the Interest Rate structure immediately went up in the market and as a result some of the prospective buyers would buy those bonds at a cheaper price. So that they can then re-sell them at a higher price and make money.*”.

- 14] When learned Senior State Counsel asked Dr. Wijewardena whether during his tenure in the CBSL, he was aware of any Governor who had visited the PDD during an Auction, Dr. Wijewardena said that he had not known of any such instance. He added, *“Because its considered as out of bonds for all of us when the auction takes place and to my knowledge there has not been any governor who had visited the Public Debt Department while an auction was taking place.”*.
- 15] When learned Senior State Counsel asked Dr. Wijewardena what his views would be, as an experienced Central Banker, of a situation where Mr. Mahendran is said to have directed the PDD to accept Bids to the value of Rs. 10.058 billion at the Auction, he states *“In my view Your Honour he shouldn’t have done that because he should have allowed the normal decision making process in the Central Bank to take care of the requirements. Of course he has the right to inform the Public Debt Department that the Government wants such a huge amount of money on that particular day then he would have allowed the public debt dept to come up with the solution rather than his giving instructions as to how it should be done. That’s my opinion. Governor Mahendran might differ with me in that respect.”*.
- 16] When learned Senior State Counsel asked Dr. Wijewardena whether Mr. Mahendran had the authority to issue an order that the Direct Placements should be stopped, Dr. Wijewardena replied, *“Again Your Honour direct placements were instituted by the Monetary Board in 1997 and if there is any change in that particular decision the decision should have been taken by the Monetary Board.”*.

Dr. Wijewardena added that since the Monetary Board meets every fortnight, urgent decisions can be taken by way of a Circular Board Resolution, especially because the Monetary Board has only 5 members.

- 17] When learned Senior State Counsel asked Dr. Wijewardena who he would hold responsible for the loss, which he says was incurred as a result of the decisions taken on 27<sup>th</sup> February 2015, Dr. Wijewardena said, *“Ultimately I will have to assign responsibility to the Monetary Board of the Central Bank.”*. He added that, the Chief Executive Officer - ie: the Governor - has to be held responsible for the executive actions of the CBSL. Dr. Wijewardena also expressed the view, that the Tender Board and especially its Chairman, had not exercised due diligence when they recommended the acceptance of bids to the value of Rs. 10.058 billion.
- 18] When learned Senior State Counsel asked Dr. Wijewardena if he would place any responsibility on the officers of the PDD for the decisions taken on 27<sup>th</sup>

February 2015, he observed that, *“in the case of the hierarchical structure of the Central Bank Governor is an official who has enormous powers, so as a result when the Governor walks into a Department or a Committee meeting where you are discussing something, it actually frightens the members there, its something that normally doesn’t happen. So because of that reason the cultural practice in the Central Bank is such that people will yield, will become an accommodating hand to the decision of the Governor.”*

- 19] In this connection when the Commission of Inquiry asked Dr. Wijewardena, *“I am glad you mentioned that, because there had been several witnesses who have in their evidence establishes to us that there was sort of a reverential treatment, unduly reverential treatment for Governor of the Central Bank. Is that your experience also ?”*, he replied, *“That is true Your Honour because I have seen in the Central Bank several Deputy Governors being de-attached by the Governor because the deputy governors had not been carrying out the instructions given by the Governor there.”* Dr. Wijewardena added that, in his *“..... long career 36 years experience in the Central Bank there are two occasions where the Deputy Governors were de-attached. So no Deputy Governor wants to run that risk.”*
- 20] When learned Senior State Counsel asked Dr. Wijewardena what he considered would be the impact *“of suddenly and abruptly halting direct placements ?”*, Dr. Wijewardena traced the background of the introduction of Direct Placements, stating the following. *“Yes Your Honour we will have to go back to the history of the direct placements in the Central Bank when the primary dealer system was introduced in 1997 Governor was Mr. A.S. Jayawardena, and we were trying the market practices through some selected group of primary dealers and Governor A.S. Jayawardena thought that even though we have the competitive bidding and all that the primary dealer system is a kind of a oligopoly where we have a limited number of people who participate in the market and who can always collude with each other and start increasing the Interest Rate structure of the country to their own advantage. If it happens it interferes with the monetary policy, at the same time cost to the Government. So he said we cannot allow the entire market system to take care of that therefore he said instead of, if the Central Bank feels, that a particular auction the Interest Rates bid by the primary dealers are not acceptable to Central Bank we must have a weapon to control it. That weapon he introduced was the direct placement.”*
- 21] When learned Senior State Counsel asked Dr. Wijewardena what his views were on the situation that had developed over time, prior to 2015, where the PDD raised almost 90% of funding requirements by accepting Direct Placements, Dr. Wijewardena said that, that was done because, in that era, the CBSL wished to suppress Interest Rates.

He said that that, Monetary Policy of artificially suppressing Interest Rates to levels which were not consistent with the prevailing economic conditions, was not a prudent policy. In this connection, Dr. Wijewardena said, *“So the Central Bank would have made a big mistake by having a monetary policy which was not consistent with the prevailing economic conditions of the country during that period”,* and went on to say, *“This is what happens Your Honour is that, now Central Bank because when the money supply goes up and there a pressure for the exchange rate to depreciate and the credit levels in the economy would go up and the market liquidity is very high the permanent solution which the Central Bank Monetary Board would have done is to increase the Interest Rate structure so that the cost would be borne by the economy and will come back to the equilibrium level later. But during this particular period from 2010 to 2014 I have noted and I have written continuously on that the monetary policy implemented by the Monetary Board was inconsistent with the prevailing market conditions. They were maintaining a low Interest Rate throughout. So as a result the market was expecting the Interest Rates to go up so they were bidding at a higher rate. So in order to prevent them from bidding at a higher rate the Central Bank would have cancelled all the auctions and allowed the market to place their money at the prevailing weighted average rate. That may be the reason why there is this pREPOnderance of direct placements in the system.”*

22] When learned Senior State Counsel asked Dr. Wijewardena, the merits and demerits of the suppression of Interest Rates, Dr. Wijewardena emphatically said that it was not a good practice because, *“The main reason is just like a boiling pan inside it is boiling and one day it might explode. Actually it exploded. You may recall in 2013 President Mahinda Rajapakse had to use the budgetary policy to depreciate Sri Lanka rupee by two percent and after that the rupee went up from 121 to 131 immediately. So likewise a market cannot be kept under suppression forever. You can do it only for a limited period of time. So Central Bank’s policy therefore was inconsistent with the market and that’s why the overbidding bidding at higher rates at the primary auction was the natural reaction of the market participants to a inconsistent Interest Rate policy of the Central Bank.”*

23] When learned Senior State Counsel asked Dr. Wijewardena what, in this background where Direct Placements had been used for a long period to suppress Interest Rates, the effect of a sudden removal of Direct Placements would be, Dr. Wijewardena said, *“A sudden change would have shocked the market and as a result there are unintended consequences and we have already seen that. So any change into a pure auction system should have been done gradually without making a announcement that from such and such day onwards there are no direct placements by the Central Bank.”* He continued to



say, *“Your Honour what would happen is that when the Central Bank loses one important policy instrument available to it is actually its at the risk of being vulnerable to market manipulators because the auction system allows the market manipulators to increase the Interest Rates to their own advantage. Now when the direct placement instrument was taken out the Central Bank the Monetary Board has no way of controlling that. So therefore it actually dilutes the monetary board’s power to control the Interest Rates structure in the country.”*.

- 24] When the Commission of Inquiry asked Dr. Wijewardena, *“So given your earlier view that over reliance on direct placements was not a good thing because it sort of doesn’t let the market find its correct rate, how would you have phased it out or struck a greater balance?”*, he replied, *“Your Honour by gradually make the you allow 10 percent, 90 percent, 80 percent 20 percent like that gradually you would have taken it out but of course in my opinion taking it out completely is again is not a good decision.”*.

In response to the Question by the Commission of Inquiry whether he *“would have recommended a mix.”*, Dr. Wijewardena stated, *“Mix. Continuation of the mix. But of course using direct placements as sparsely as possible.”*.

When the Commission of Inquiry asked further, *“So basically what you are saying is you would have preferred a more auction oriented way of raising funds with the use of direct placements”*, he replied *“As a controlling measure.”*.

- 25] In response to a Question from the Commission of Inquiry, *“So would you then say it is essential that the Central Bank retains ability to use direct placements to a certain extent where necessary ?”*, Dr. Wijewardena replied, *“It is essential Your Honour because the direct placement system is used by all the countries in the world. Its not only Central Bank of Sri Lanka”*.

- 26] When learned Senior State Counsel asked Dr. Wijewardena to sum up his understanding of the direct impact of a sudden decision to stop Direct Placements, he stated, *“Number one is that the Central Bank lost a very powerful weapon, number two it allowed the primary dealers to manipulate Interest Rates, number three the Government was losing money. Those are the three repercussions.”*.

- 27] When learned Senior State Counsel asked Dr. Wijewardena to summarize what, in his view, were the relative merits and demerits of the Direct Placements and Auction system, Dr. Wijewardena said, *“In fact if we derive the perfect information Your Honour which means that everyone in the market has access to the correct and the perfect information, the auction system is the best. But unfortunately what we have in this world is an imperfection in the information”*.



*system. Isn't it? One person will have the information several others may not have. In that situation what would happen is the person who has the information can always take undue advantage of the person who doesn't have information. To prevent that kind of a situation the markets are being organized through the auction system plus the direct placements so that when the Central Bank sees that the Interest Rates are rising above its target level, it will always use the direct placements to control it apply the brake and allow the market system to function within the Central Bank's Interest Rate corridor. So that is the relative advantage of having direct placements."*

- 28] In response to a Question from the Commission of Inquiry, Dr. Wijewardena agreed that, the integrity of a Direct Placement system is dependent on the due performance of duties by the Officers of the PDD and that any laxity or deliberate abuse of the system by the Officers of the PDD, would give a Primary Dealer an undue advantage.
- 29] In this connection, in reply to Questions from learned Senior State Counsel, Dr. Wijewardena said, that there had been instances where Officers of the PDD and EPF had to be removed from their positions, because of "*rumours*" that these officers were having "*undue friendship*" with particular Primary Dealers.
- 30] Dr. Wijewardena also noted that, there was a significant difference during the time when he was in the CBSL and the present. In this connection, he said that, prior to 2009, all Direct Placements were made only to "Captive Sources", unlike in the period sometime after 2009, when Primary Dealers had access to Direct Placements.
- 31] When the Commission of Inquiry asked Dr. Wijewardena what organizational and structural changes he would recommend with regard to the manner in which the PDD is set up, Dr. Wijewardena stated the following: the Back Office, Middle Office and the Front Office should be separated, with a Security Check Entrance System between each Office; there should be a Voice Recording System to record all conversations in the Front Office; Mobile Phones should not be permitted within the PDD; the Assets, Liabilities and Bank Accounts of officers of the PDD should be monitored; and the staff of the PDD must be rotated on a regular basis.
- 32] When learned Senior State Counsel asked Dr. Wijewardena for his views on the difficulties that resulted from the phenomenon of "bunching", Dr. Wijewardena replied, "*Your Honour it is actually a problem because the bunching means that the Government will have to pay, repay a large amount of debt in a given particular year and it will affect the Government's own budgetary operation.. So to smoothen that Central Bank will have to use this term structure whenever they whatever the bonds matures on a particular year and if there's*

*a bunching instead of issuing into mature in another year where it would bunch they will have to postpone it to another further period. So it's a kind of a public debt management to be done by the Public Debt Department to avoid the bunching."*

- 33] With regard to the Treasury Bond Auctions held on 10<sup>th</sup> March 2016 and 24<sup>th</sup> March 2016, Dr. Wijewardena said that the bids at these Auctions had been, *"About 100 basis points to 150 basis points above the prevailing market Interest Rates relating to the respective bonds that had been offered in the market. So naturally, a Public Debt Department cannot accept them because they are way above and they have to reject it. So therefore I don't find anything in rejecting the respective bids because they are not actually in line with the prevailing market Interest Rates."*

Dr. Wijewardena added that this occurred due to the abolition of Direct Placements and observed, *"So what I would notice is that because of the abolition of this instrument called direct placement, Central Bank had got itself constrained by not resorting to any particular hybrid system through which it would have tackled the situation. Because had the Central Bank been equipped with this direct placement equipment they could have used that equipment in order to tame Interest Rates in the market. So therefore, it was actually a situation that have been created by a earlier decision taken by the Central Bank to do away with the direct placements one year ago."*

He went on to state that, *"So as a result, when it came to the bond auction on 29<sup>th</sup>, the market was fully aware that the Government has no any other choice but actually Government had been cornered. Public Debt Department had been cornered by itself. So a result, there had been incentives for the primary dealers to use various devious methods to bid at very high rates and get them accepted through the normal auction process. So what I find here is, according to the information provided by Auditor General in his Report to COPE, the Employees' Provident Fund which is supposed to play a balancing role in this activity had kept itself virtually away from the primary market by bidding only a very small amount. So as a result, the largest market maker in the primary market had been away. So in that situation Your Honour, the primary dealers can always corner the Public Debt Department and get whatever they want to do, so it is exactly what has happened on the 26<sup>th</sup> auction and Central Bank had."* Dr. Wijewardena then witness corrected himself by stating that he referred to the *"29<sup>th</sup> auction and Central Bank had offered the market forty billion but ended up in accepting up to 77 billion. So that's what has happened."*

- 34] In response to a Question from the Commission of Inquiry, *"So Dr. Wijewardena to summarise, you consider according to what you said considered the rejection*

of the bids at the 10<sup>th</sup> auction and the 24<sup>th</sup> auction has having been correctly done ?”, the witness replied in the affirmative.

35] In response to a Question from the Commission of Inquiry, *“You find what you find was not done, was to use some other alternate mode of raising those funds in view of the pressing need to raise 105 Billion by the end of the month?”*, Dr. Wijewardena replied, *“Exactly, Your Honour, yes.”*. To a further question from the Commission of Inquiry asking , *“So what you are saying is, even at that time the decision taken on the 27th February to do away with direct placements could have been revisited.”*, Dr. Wijewardena replied, *“Revisited, exactly, so that what has happened as a result, according to information provided by the Auditor General here in this REPOrt, out of the 77 billion, one particular primary dealer, he has not given a name here, has been able to get about a chunk about half, 50 percent of the total issued and as a result he had built up the monopoly power in the respective securities. So what happens Your Honour, when any particular primary dealers builds up the monopoly power, he is in a position to dictate terms to the rest of the people in the market. So what the Auditor General has said here, as well as what I have learned from the lead examination Report on one of the primary dealers in the Central Bank, there had been a tactic of selling whatever that had been purchased in the primary market to some intermediary three banks and one, another primary dealer immediately at a higher price, then at substantially higher price they had been able to unload those bonds on the Provident fund of the Central Bank of Sri Lanka. And that has been reported by the Auditor General in his Report about 9.7 billion worth bonds relating to this 29<sup>th</sup> March auction had been purchased by the EPF within a matter of about say six weeks from the secondary market at fabulously high prices.”*.

36] Dr. Wijewardena went on to say, that at the Auction held on 29<sup>th</sup> March 2016, a particular Primary Dealer had *“been able to corner the market.”*

37] In response to Questions from the Commission of Inquiry, Dr. Wijewardena produced two Graphs prepared by him, which were marked **“C78”** and **“C79”**. He said that, these Graphs showed a pattern which indicated the 15-year Treasury Bond and the 25-year Treasury Bond had been subjected to what Dr. Wijewardena described as *“pumping and dumping”* during the two weeks preceding 29<sup>th</sup> March 2016.

Dr. Wijewardena described *“pumping and dumping”* as situations *“where a small amount of bonds would be sold so that the price will start coming down and therefore they will be in the market one person who is interested in pushing the market prices down, can push down the price. Then after he has purchased it, he starts pumping it up again by selling small amounts and buying small amounts and the prices will go up. So according to the information in the .....”*.

In response to a further Question by the Commission of Inquiry asking, *“Just to clarify. Before you go any further. “Pumping and dumping of treasury bonds”, the same unfortunate thing that can happen on a large scale in the stock market in the years gone by?”*, Dr. Wijewardena replied, *“Exactly Your Honour.”*

Dr. Wijewardena went on to say that, apart from the Primary Dealer he mentioned, the three counter parties to this pumping and dumping exercises were, the Primary Dealer arm of the DFCC Bank, the Primary Dealer arm of Pan Asia Banking Corporation and Wealth Trust Securities Ltd.

38] When learned Senior State Counsel asked Dr. Wijewardena whether he had any views on a loss that may have been caused as a result of the Treasury Bond Auction held on 29<sup>th</sup> March 2016, Dr. Wijewardena replied, *“According to the available information Your Honour we cannot calculate any loss to the Government because the prevailing Interest Rate structure in the Government Securities Market has been actually erratic. So therefore we don’t know which Interest Rate should have been the proper or correct Interest Rate and we are not in a position, I am not in a position to calculate any loss to the Government immediately in this context.”*

39] When learned Senior State Counsel asked Dr. Wijewardena for his views on what should be done in a situation where a Governor of the CBSL finds himself in a situation where there could be a conflict of interest, Dr. Wijewardena said that, the Governor must then *“declare it to the Monetary Board and dissociate himself from any dealings that involve conflict there.”*

When learned Senior State Counsel asked Dr. Wijewardena for his views on the fact that, Mr. Mahendran’s son-in-law, Mr. Arjun Aloysius, was a Director and Shareholder of the Holding Company of Perpetual Treasuries Ltd while Mr. Mahendran was the Governor of the CBSL, Dr. Wijewardena said that his view is that, Mr. Aloysius had a *“beneficial interest”* in Perpetual Treasuries Ltd and, further, that, *“in terms of modern banking regulation and supervision”* the CBSL was also required to supervise and regulate the Holding Company. The witness said that, for those reasons, he is of the view that, *“..... therefore it’s a serious conflict of interest.”* and described the position as *“an inappropriate situation.”*

Dr. Wijewardena added that, in his view, due to these factors, Mr. Mahendran should have *“..... refrained himself from participating in any of the activities relating to the Government Securities market or anything to be done with the Perpetual Treasuries, it would have been the better governance structure that would have been practiced in the Central Bank.”*

When the Commission of Inquiry asked Dr. Wijewardena for his views on the propriety of the fact that, Mr. Nivard Cabraal's sister, Ms. Siromi Wickramasinghe, was a Director of the Holding Company of Perpetual Treasuries Ltd while Mr. Cabraal was the Governor of the CBSL, Dr. Wijewardena said, *"If Mr. Nivard Cabraal has disclosed it to the Monetary Board and if he had refrain himself from any dealings with Perpetual Treasuries that would have been fine, but of course I know after my retirement from the Central Bank, Mr. Nivard Cabraal's sister was appointed chairperson of the HDFC Bank. One of the Banks that needs to be regulated by the Central Bank and we will have to examine whether the correct Governance practices had been followed by him."*

When the Commission of Inquiry asked Dr. Wijewardena for his views on whether a failure by Mr. Nivard Cabraal to disclose to the Monetary Board that his sister, Ms. Siromi Wickramasinghe, was a Director of the Holding Company of Perpetual Treasuries Ltd, would have been inappropriate, Dr. Wijewardena replied, *"Exactly, Your Honour."*

- 40] Learned Senior State Counsel led extensive evidence with regard to the nature of the operations of the EPF, during Dr. Wijewardena's tenure at the CBSL.

However, since Dr. Wijewardena's period of service at the CBSL ended in 2009, which is six years before the period of our Mandate, we do not consider it necessary to refer to this evidence in detail.

But, it is relevant to note Dr. Wijewardena's observations that, prior to 2009, the Middle Office of the EPF had determined the investments that should be made and recommended those investments to the Investment Committee. Thereafter, the Investment Committee would decide on the investments which should be made or traded. Finally, those decisions were then sent to the Front Office for execution. He commented that, the Front Office *"had to carry out the decisions taken by the Investment Committee they have no freedom."*

Dr. Wijewardena added that, the Investment Committee must sit at 8.30am every day. He said that, if the Investment Committee did not do so, *"I have a serious suspicion about the governance structure in the Employee's Provident Fund."*

- 41] With regard to the Bids submitted by the EPF at the Treasury Bond Auction held on 29<sup>th</sup> March 2016, Dr. Wijewardena commented that, the fact that Treasury Bonds to the value of Rs. 40 billion had been offered, made this a *"mega issue"* and that he found it surprising that the EPF had bid for only relatively small amounts.



42] When the Commission of Inquiry asked Dr. Wijewardena how a Primary Dealer who purchases a large quantum of Treasury Bonds at an attractive Rate at an Auction can then generate substantial Profits from dealing in those Treasury Bonds, Dr. Wijewardena said that the Primary Dealer would have to carry out *“two kinds of manipulations that I have to do. Building up a network and also see that the prices are attractive.”*

43] Thereafter, in reply to a Question from the Commission of Inquiry asking, *“So then from what I understand from what you are telling us is that a primary dealer who expects to get, listen carefully, who expects to get a large volume of treasury bonds at a cheap rate at a auction or wherever and wishes to turn that into a very substantial profit, will do two things. One, build up a network of buyers who will be willing to buy at rates that are favourable to me. Two, commence or continue action which are designed at pumping up the rate at the point at which you sell. Am I right?”*, Dr. Wijewardena replied, *“Exactly.”*

44] When the Commission pointed out that that could result in a “One-Off Profit” only, Dr. Wijewardena said that, further Profits could be made because *“there’s another way Your Honour because the same bond can be bought and sold continuously by manipulating the market prices.”*

In response to the further Question, *“Then what you are saying is, then to achieve a very large profit because on the first transaction it’s a not a very large profit. To achieve a very large profit you have to engage in a series of transactions.”*, Dr. Wijewardena replied, *“Pumping and dumping.”*

45] Dr. Wijewardena said that in his view, the Auditor General’s assessment of the immediate loss was based on certain assumptions, which, in his view, were *“a fair assessment.”*

46] In response to a Question from the Commission of Inquiry asking, *“Make a distinction between the two. There is a calculation of immediate loss which is based on the mathematics of the auction and the prevailing prices in the secondary market. Right ? That is fairly a simple calculation. With regard to the indirect loss or the consequential loss, what are the ways and means what are the methods that can be allowed to quantify that?”*, Dr. Wijewardena stated, *“There are, we have to take into account several factors Your Honour one is the gradual upward movement of the yield curve as a result of this and as a result in the subsequent bond issues by the Government, they have to issue it at a very high yield. So therefore the loss was actually built into the Government of Sri Lanka continuously for about five to six months so that we can calculate by taking into account the increase in the yield curve, but of course again here we come up with the problem because Interest Rates in the market are*



*determined by the various factors and we have to isolate all other factors that may have contributed and then pinpoint it to one particular.....”.*

- 47] In response to a further Question by the Commission, *“This is the question that is troubling I think all three of us. The immediate or direct loss is a relatively simple mathematical exercise which we may be competent to do. With regard to the indirect or consequential loss that is a extremely complex task which requires I suppose computer models and you know the services of a expert not in one field but in several fields. What is the modality that you would recommend ? If one wishes to ascertain those indirect consequential losses, if any?”*, Dr. Wijewardena replied, *“There are various models available.”.*
- 48] In response to a Question by the Commission, *“And consequential losses if any, for the record?”*, the witness stated, *“consequential losses, various models available in finance and I have seen one professor, Sri Lankan professor now serving in the University of St. James in USA, he had actually calculated by taking into account a longer term view and discounted present value of the loss and so forth, likewise if we can get a financial expert to do the job he is in a position to calculate it.”*
- 49] In response to a further Question, *“When you say financial expert there are financial experts in so many fields, can you be a little more specific?”*, he stated that the need is for an *“Expert in securities. Securities dealings.”.*
- 50] Dr. Wijewardena emphasized the need to ensure that, only persons who have undoubted integrity and competence are appointed to the Monetary Board. He decried the practice of appointing *“loyalists, political loyalists or friends”* to the Monetary Board and said that, doing so, was *“a disservice to the nation.”.*
- Dr. Wijewardena said that during his tenure as a Deputy Governor, he had encountered members of the Monetary Board, who did not have the necessary expertise and competence to serve in the Monetary Board.
- 51] Dr. Wijewardena recommended the establishment of a system where the selection process of a successor of a Governor who is due to step down, should commence at least a year before the successor is required to assume the office of Governor. He added that the announcement of the next Governor should be made about a year before assuming office, so that he would have adequate time to effectively learn and carry out his duties.
- 52] In response to a Question from Mr. Harsha Fernando, Attorney-at-Law, representing Mr. Samarasiri, Dr. Wijewardena said that the Coupon Rate of a Treasury Bond is determined by the CBSL, by taking into account the appetite for that particular Treasury Bond, the prevailing Interest Rate structure in the

market and the need to make the Treasury Bond attractive to investors. In this connection Dr. Wijewardena said, *“Coupon rate is determined by the Central Bank by taking into account the appetite for the particular bond in question your Honour. Number two, the prevailing Interest Rate structure in the market, and number three, the ability of making it attractive to the prospective investors. Those three factors are taken into account and they decide on that.”* He added that the Coupon rate is decided by the *“Domestic Debt Management Committee headed by the Superintendent of Public Debt”*, and is, thereafter, *“presented to the Monetary Board when the Monetary Board is apprised of the issue of the bond.”*

Dr. Wijewardena was unaware of any formal procedure or a Circular that governed the determination of the Coupon Rate at which a Treasury Bond was to be issued.

- 53] In response to a Question from Mr. Harsha Fernando, Attorney-at-Law, with regard to the EPF being under the control of the CBSL, and as to whether it is correct for the CBSL to use EPF funds for both Monetary Purposes and Fiscal Purposes, Dr. Wijewardena replied, *“It is actually the case Your Honour, because unfortunately the Employees’ Provident Fund has been wrongly placed in the Central Bank of Sri Lanka under the guidance of the Monetary Board of the Central Bank of Sri Lanka. Therefore, Monetary Board has to wear two hats. One hat when it conducts its open markets operations policy, another hat when it invests monies for the EPF, but sometimes there is the dilution of the two hats and as our learned Counsel has mentioned it can happen.”*

When Mr. Harsha Fernando asked, whether EPF funds should not be used to satisfy the Fiscal needs of the government since the EPF is statutorily obliged to obtain the best returns for its members, Dr. Wijewardena said, *“I agree with you.”* But, he added that the practice of using EPF funds for Fiscal purposes has been in operation for many decades.

- 54] When Mr. Harsha Fernando, Attorney-at-Law, examined Dr. Wijewardena on some extracts set out in the Auditor General’s REPOrts on Direct Placements, which were marked **“S17”** to **“S19”**, Dr. Wijewardena said that he had read these REPOrts and that the Auditor General had done *“a good job.”*
- 55] In response to Questions from the Commission of Inquiry as to whether Dr. Wijewardena recognized that there were opportunities for malpractices in the Direct Placements system, Dr. Wijewardena replied in the affirmative.
- 56] In response to Question from the Commission of Inquiry asking, *“Let me try and summarise. You do recognize that ? What you are emphatic in your view that the Central Bank must be able to resort to direct placements as a tool to guide*

*Interest Rates and yield rates in the direction that the Central Bank wants ?”, Dr. Wijewardena replied, “Exactly Your Honour.”.*

*In response to the further question, “And that if you rely solely on auctions you place yourself at the mercy of the market with no escape valve. You consider the escape valve or the pressure valve, the control valve, direct placements ?”, Dr. Wijewardena replied, “Exactly sir.”.*

57] In response to a Question asked by Mr. Nihal Fernando, PC, appearing on behalf of Perpetual Treasuries Ltd, Dr. Wijewardena states that his calculation of the loss set out in the document marked “**C77**” had been arrived at using “After Tax Rates”.

58] In response to a Question from Mr. Nihal Fernando, PC, Dr. Wijewardena acknowledged that his computation set out in “**C77**” is based on assumptions.

59] In response to a Question from Mr. Nihal Fernando, PC, suggesting that the tax paid by a Bidder should be taken into account when calculating the monies received by the Government on a Bid, Dr. Wijewardena said that the tax payment is completely separate from the sum received by the CBSL when a Bid is accepted. He emphasized that, when calculating loss or gain accruing to the CBSL at the stage of accepting bids at an Auction, only the “After Tax Rate” is relevant.

60] In response to a Question from Mr. Nihal Fernando, PC, on the calculations set out in “**C77**”, Dr. Wijewardena acknowledged that, he had proceeded on the basis, that the balance funds could have been obtained by the issue of a 2 Year Treasury Bond at a cost of 7.75% *per annum*.

*In response to the Commission of Inquiry, Dr. Wijewardena conceded, that it is not possible to ascertain whether this cost would have remained at the same level over a period of thirty years, since a 2 Year Treasury Bond would have matured for payment, fifteen times during that period.*

61] Dr. Wijewardena stated that he agrees with the statement made by 09 Members of the COPE [set out at p. 13 of the Report of the COPE of the Eighth Parliament], which reads as follows.

*“They stated that they could not concur with the assertion that, ‘by issuing bonds at discount rate that the Government incur a financial loss’.*

*In general, the statement to the effect that the government incurs a loss on all occasions through the issue of bond at a discount price cannot be agreed upon. The reason for this is that a bond of less than one year is a bill (a Treasury Bill)*

*can never be sold at a face value. If an interest or coupon is attached to a bond with more than one year maturity, it can only be sold at a face value of Rupees One Hundred only on one occasion, i.e. only if the interest received for a bond is equal to the interest received for it during the same period of time in the secondary market. If there are previously issued unsold bonds in the market similar to this bonds and if the yield rate that such bonds receive in the secondary market is the higher than these bonds, the bond can only be sold at a discount. Whether the face value is above or below hundred is determined by the Interest Rate relevant to this bond and the yield rate for the similar bonds in the market.”.*

- 62] In response to a Question from Mr. Chanaka de Silva, Attorney-at-Law, representing for Mr. Mahendran, Dr. Wijewardena stated that the CBSL made a loss of Rs. 24.3 billion in 2013 and Rs. 32.3 billion in 2014 as set out in the Annual REPOrts of the Central Bank of Sri Lanka.

Dr. Wijewardena expressed surprise that the CBSL had made these losses and said that these losses were caused due to *“unusual expenses that had popped into the accounts of the Central Bank.”* He identified the following, as some items of unusual expenses: Consultancy Fees, losses on foreign exchange dealings, Profit Transfers to the Government despite making losses, which meant that the transfer had to be made out of capital, and the Sales and Purchases of gold which resulted in a loss.

At this stage Mr. Chanaka de Silva, Attorney-at-Law, marked **“AM4”**, an article written by Dr. Wijewardena commenting on these losses.

- 63] In response to Mr. Chanaka de Silva, Attorney-at-Law’s questions with regard to the depreciation in the Sri Lanka Rupee against the US Dollar in the days prior to 27<sup>th</sup> February 2015, Dr. Wijewardena stated that Banks were holding US Dollars in the expectation that the Sri Lanka Rupee would depreciate further. He also agreed that, by 27<sup>th</sup> February 2015, the Inter Bank Rate had moved up to 6.04% *per annum* and excess Liquidity was at a sum of Rs. 55.9 billion.
- 64] When Mr. Chanaka de Silva, Attorney-at-Law, asked Dr. Wijewardena *“Now would you agree with me that the position which prevails on the 27th February in that context was not a very healthy situation?”*, the witness agreed and said that, *“It was not a very healthy situation because the speculation have been built up and Central Bank has to now remove the speculations.”*
- 65] When Mr. Chanaka de Silva, Attorney-at-Law, asked whether in that situation he would have recommended an *“intervention”*, Dr. Wijewardena replied, *“We*

*have to do something to first take the speculation out, so it may be intervention or it may be changing the Interest Rates or doing something.”.*

- 66] In response to Mr. Chanaka de Silva’s suggestion, that in view of the fact that there had been a significant outflow of Foreign Investments in the Treasury Bond Market from mid-2014 up to February 2015, it was necessary to defend the Sri Lanka Rupee value against the US Dollar, Dr. Wijewardena replied, *“They came because there was a very fruitful investment opportunity available in Sri Lanka. They were not, investors were not concerned about the defence of the currency.”* When Mr. Chanaka de Silva suggested *“that during the period after May 2014, it became necessary to defend the currency because the investors were leaving?”*, Dr. W.A. Wijewardena replied that, *“That information is correct.”*
- 67] In reply to Mr. Chanaka de Silva, Attorney-at-Law, Dr. Wijewardena said that in his view a “Captive Source” is *“any investor who is under the direct control of the Ministry of Finance.”* and said that, he regarded People’s Bank and Bank of Ceylon as “Captive Sources”.
- 68] When the Commission of Inquiry questioned Dr. Wijewardena with regard to the decision-making process when fixing the Coupon Rate on a Treasury Bond, Dr. Wijewardena stated, that the *“Coupon rate is actually decided in the Public Debt Department, by taking into account the inflation expectation for the tenure of the bond, plus they give 4%, roughly 4% real return to the investor, plus another one or two percent, to cover up the market risk. So, that’s how the decision is made.”*. He added that the Coupon Rate is decided by the Superintendent of Public Debt and the Domestic Debt Management Committee. Dr. Wijewardena also stated that the Coupon Rate which is decided by the Superintendent of Public Debt and the Domestic Debt Management Committee is not submitted to the Deputy Governor or the Assistant Governor for prior approval, but only goes to the Monetary Board for ratification.
- 69] When the Commission of Inquiry asked Dr. Wijewardena to describe the decision-making process when fixing the terms of a Treasury Bond, he said that these parameters are decided by the PDD, which looks into the maturity profile of the Treasury Bond and other related matters. He said that a large degree of discretion is given to the PDD.
- 70] When asked by the Commission of Inquiry whether repayment of a Treasury Bond on maturity is paid by the appropriation of funds out of the Consolidated Fund and Assets of Sri Lanka or a Sinking Fund established for the purpose of redeeming Treasury Bonds, Dr. Wijewardena replied that there is no Sinking Fund.



He went on to say that, usually, when a Treasury Bond falls due for payment, another Treasury Bond will be issued and the funds generated therefrom will be used to pay the Treasury Bond that matured. Dr. Wijewardena said that, if there is a shortfall, that amount would be charged to the Consolidated Fund and be paid from the general Revenue of the Government, with the approval of the Ministry of Finance or a drawing would be made on the Government Overdraft with one of the State Banks or the Central Bank would issue a Treasury Bill.

With regard to a Sinking Fund, the witness states that there had been a Sinking Fund maintained prior to 1987, but it had been done away with.

## **Section 5.20**

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## **Mr. H.M. Wasantha Samarasinghe**

Mr. Herath Mudiyanseelage Wasantha Samarasinghe is presently a member of the North Western Provincial Council. He had been an appointed Member of Parliament through the National List in 2004, as a member representing the Janatha Vimukthi Peramuna. He had resigned from the Parliament on the 30<sup>th</sup> of June 2008, in order to contest as a JVP candidate for the North Western Provincial Council and after having been elected, he served as a member of that Provincial Council. He continues to serve in that capacity to date.

He graduated from the University of Kelaniya, where he read for his Bachelor of Arts Degree in Business Management and Accountancy. He has been serving as a member in the JVP Central Committee since 2011. He has functioned as the President of the Inter Companies Employees Union since 2008 and founded the “Voice against Corruption Movement” in 2011. He said that the Inter Companies Employees Union seeks to further the rights and privileges of employees who are entitled to and contribute towards the Employees Provident Fund. The “Voice against Corruption Movement” is instrumental in conducting investigations and collecting evidence concerning the misuse and corruption of public property and funds. In response to the Notice issued by the Commission of Inquiry calling for representations from the public in respect of the matters coming within its Mandate, Mr. Samarasinghe as the Chairman of the Inter Companies Employees Union has sent the letter dated 20.02.2017 with two annexures to the Commission, marked “**C84**”.

The relevant evidence of this witness is:

- 1] At the outset, Mr. Samarasinghe stated that he along with around 600 employees went and submitted a letter to the present Governor of the Central Bank concerning the allegations made on the issuance of Treasury Bonds at the Auction held on 27<sup>th</sup> February 2015. He stated that he was very concerned about the nature of the transactions under scrutiny and has voiced his opinions against the environment that was created to facilitate the alleged scam.



- 2] The witness stated that there is a reasonable doubt concerning certain transactions of Perpetual Treasuries Limited and alleged that the PTL had sold certain Bonds, sometimes at a loss, prior to the Auction held on 27<sup>th</sup> February 2015.
- 3] His stance is that the Monetary Board, former Governor and the Director of EPF are responsible for the decisions taken in respect of the issuance of the Bonds. He then said that the EPF is subject to the authority of the Central Bank. He also stated that during the first six months of 2016, investments worth Rs. 140 Billion were made by the EPF through Direct Placements, as well as in the Secondary Market and then said that the EPF need not have done so as there was greater scope in the Primary Market itself. However, during cross examination, he accepted that EPF had not purchased Bonds from PTL in the Secondary Market during the months of May and June.
- 4] Mr. Samarasinghe referred to a Report concerning the issuance of Bonds, prepared by an expert committee of the “Voice against Corruption Movement”. It was marked as “**C84B**”. This Report considers, *inter alia*, evidence concerning unimaginably high levels of profit made by PTL within a period of 21 months and the losses experienced by the EPF as a result. He made reference to an internal Report of the Central Bank, which his organization had received via mail, and sought that it be considered by the Commission. Furthermore, he urges the Commission to obtain a Report that had been purposely hidden; one which he alleges continues to remain in the custody of the CBSL. The Witness also referred to a letter written by him on the 27<sup>th</sup> of March 2017 to Dr. Coomaraswamy which was marked as “**C85**” and also to the reply marked “**C86**”. This letter concerns the officers of the Central Bank who were instrumental in the decision-making process of the issuance of the Bonds under scrutiny. He said that these officers still continue to remain in service at the Central Bank.
- 5] In his evidence, he also referred to the sources from which the information concerning these Bonds was obtained. Apart from the information already available in the public domain, his Union had received information in writing, from Primary Dealers as well.
- 6] Mr. Samarasinghe said that he has acquired knowledge in respect of the issuance of Bonds by engaging in Union activities and also by gaining knowledge through his university education which covered the subjects of accounting and economics.
- 7] Mr. Samarasinghe complained that Mr. Arjuna Mahendran and Perpetual Treasuries Limited are responsible for the unnatural increase of the Interest

Rates. He then stated that according to the CBSL REPOrt, the Interest Rate for the 30 Year Bond in the Secondary Market a week prior to 27<sup>th</sup> February 2015 was 9.48%. He further stated that the Bank of Ceylon bidding on behalf of PTL for an amount of Rs. 3000 Million is also a part of the greater scam, because banks usually refrain from purchasing Bonds with long tenors.

- 8] The witness, referring to Page 95 in the document marked, “**C84B**” which shows a calculation of the loss suffered after the Auction of 27<sup>th</sup> February 2015 said that this calculation was made by making use of the Rates used for a 30 Year Bond in the Secondary Market at the time. The witness referring to an offer by which Rs. 10,000 Million was offered on 04<sup>th</sup> July 2015, states that only Rs. 14,340 Million was accepted, of which Rs. 12,900 Million was by PTL at a rate of 9.4%. In response to a question by Counsel Mr. Chanaka De Silva, he stated that official documents of the Central Bank, Report of the Auditor General and other related documents were used as sources for the preparation of their Report.
- 9] The witness referring to the Page 94 of the document marked, “**C84B**”, stated that the Auction held on 27<sup>th</sup> February 2015 had an impact on the overall debt of the country, foreign direct investments and the depreciation of the rupee.

**Section 5.21 - Hon. D.M.M. Weerakumara Dissanayake, MP**

Mr. Dissanayake has been a Member of Parliament of the Republic since 2004. Before becoming a Member of Parliament, he had been a Provincial Council Member from the year 1999. He was also a member of the COPE which inquired into the issuance of Treasury Bonds at the Auction held on 27<sup>th</sup> February 2015.

He is a signatory to the document tendered by Hon. Bandula Gunawardena M.P. when he was giving evidence before this Commission. In that document a request had been made to afford an opportunity for its signatories to give evidence before the Commission of Inquiry. Mr. Dissanayake is one of those signatories. While giving evidence Mr. Bandula Gunawardena also made a request verbally, to allow the members of the opposition in the Parliament who functioned as the members of the COPE, to testify before the Commission. This is the background in which Hon. Weerakumara Dissanayake, who was a member of the COPE Committees of the Seventh Parliament, as well as the Eighth Parliament, was called as a witness.

The relevant evidence of this witness is:

- 1] Mr. Dissanayake in his evidence stated that he was giving evidence as a representative of the public and then basically focused on the matters connected with the Treasury Bond Auction held on 27<sup>th</sup> February 2015. He was of the view that due to the manner in which the Treasury Bonds were issued by

the Central Bank, the Interest Rates in the country had increased and consequently it had affected the public and the businesses very badly. He emphasized that when he was the Deputy Minister of Small Industries, the then Government had always maintained the Interest Rate at 9%.

- 2] The witness said that the Central Bank is placed at a unique place and that it functioned in a way that was quite different to any other Government Department. He then said that the Bank had an overall authoritative power and was in a position to even disregard the recommendations of the COPE and the Parliament. He said the Central Bank even disregarded the directions of the Auditor General. He said that he had major concerns about the appointment of Mr. Arjuna Mahendran as the Governor as he is a foreign national.
- 3] Mr. Dissanayake had his concerns over the many transfers that were given effect to, pursuant to the appointment of Mr. Mahendran as the Governor. He also said that no other Governor, other than Mr. Mahendran, had visited the Public Debt Department before. He further stated that it was Governor Mahendran who decided to find money purely through an Auction system by deviating from the practice that prevailed till 27<sup>th</sup> February 2015. He was critical of the change that had taken place by the introduction of a purely Auction based system.
- 4] He stated that the purchase of Bonds worth of Rs. 8 Billion by a company which has a relationship with Mr. Mahendran, was of significance. He also placed emphasis on the value of the Treasury Bonds that were sold on that date. Finally, he said that everything had been done intentionally and that it amounts to the commission of a crime.

**Section 5.22** - **Dr. N. Weerasinghe**

Dr. Weerasinghe joined the Central Bank of Sri Lanka as an Assistant Director in 1991. He served in that post for three years in the Census Department and then left on 01<sup>st</sup> June 1994 for Postgraduate Studies at the Australian National University, Canberra. He holds a Masters in Economics and a Ph.D from the same University. Upon his return after having completed his Postgraduate studies, Dr. Weerasinghe was attached to the Economic Research Department as an Economist, a Senior Economist and was then promoted as Deputy Director and then as Director Economic Research from January 2007 to August 2009. He was promoted as Assistant Governor in August in 2009 and then as Deputy Governor in 2001.

Dr. Weerasinghe was designated as Chief Economist of the Central Bank of Sri Lanka when he was Director Economic Research in recognition of his contribution. He was appointed as alternate Executive Director IMF in January 2010 for about two years

and eight months. He was appointed Deputy Governor while he was serving at the IMF in September 2011 and assumed duties as Deputy Governor on his return from the above assignment in September 2012. Dr. Weerasinghe has contributed to Articles on various topics and participated as a Resource Person in International and Local conferences.

The relevant evidence of this witness is:

- 1] Dr. Weerasinghe is in Charge of the Economics and Price Stability Cluster and was also assigned several other Departments. The Witness stated that the two key objectives of the CBSL are Economic and Price Stability and Financial Systems Stability and briefly explained the areas under these objectives and the manner in which they are managed. The witness stated that the CBSL and other Central Banks around the world use two major instruments i.e. Interest Rates and Exchange Rates among others to control and stabilize economic growth inflation and price stability. In the Sri Lankan context, Dr. Weerasinghe stated that it is more important and significant to control Interest Rates and explained the reasons for the same with an appropriate example. He said that there are several tools to control Interest Rates and that there are several Interest Rates, i.e. short term, medium to long term. The CBSL controls short term Interest Rates through Open Market Operations i.e. by using the Standing Deposit Facility, Standing Lending Facility and indirectly by using the Standing Reserve Requirement of the Commercial Banks, REPO and Reverse REPO Rates.
- 2] The witness stated that it is important to focus on the Government Securities Market for the long-term Interest Rate management, as it is considered as a bench mark Yield Curve for all other businesses for the reasons that they are risk free. The Government Securities Yield Curve should be properly set, otherwise it will have an impact on all other Interest Rates. It is his contention that the Central Bank should exert some degree of control over the Interest Rate structure of Government Securities in order to maintain economic and price stability.
- 3] Dr. Weerasinghe stated that various Committees of the Bank i.e. Monetary Policy Committee, Market Operations Committee and the Tender Board can influence the long term yield curve of the Government Securities market.

The Central Bank, therefore should be able to increase or decrease Interest Rates in the Market to stabilize the overall economy and inflation. His contention is that the CBSL should be able to, at any time manage Interest Rates according to its wishes.

In reply to Questions from the Commission of Inquiry, the witness stated that Interest Rates are generally not increased to meet the increase in demand of

the Government as it will have an impact on the Economy. The witness explained in detail various measures taken by the Bank to control economic growth, inflation and price stability.

- 4] The witness was referred to the decision of the Monetary Board in September 2014 to rationalize the Interest Rates in the Two-Tier Interest Rate Structure applied on the overnight Standing Deposit Facility offered by CBSL. The witness said that, the situation at that time was that inflation was running very low, growth was declining, and had at some point come to zero and there was sufficient liquidity in the market. The Banks were depositing surplus money in the overnight Standing Deposit Facility and were earning comfortably, instead of lending it for economic activities.

In reply to a Question from the Commission, the witness stated that the percentage of money deposited at that time at 6.5% *per annum* and 5% *per annum* Interest Rates was 54% and 46% respectively.

Dr. Weerasinghe stated that Interest Rates were moving up and down and were very volatile, even in the short term. He stated that this situation was not good and that the Monetary Policy Committee wanted to revert back to the normal situation.

The witness said that as the Chairman of the Monetary Policy Committee, he did not see any need to raise the Interest Rates in February 2015. He said that, their recommendation to the Monetary Board was the removal of the 5% *per annum* penal rate on the overnight Standing Deposit Facility and the reduction of the normal Interest Rate from 6.5% *per annum* to 6.0% *per annum*. The reasons for these recommendations were stated by the witness in detail.

- 5] The witness stated that there was no reason to guide the Interest Rates up. He stated that if there is a need to guide the Interest Rates upwards or downwards, it should be done gradually, within the Policy Corridor.

In answer to a Question from the Commission, witness stated that the Board Paper submitted to the Monetary Board on 23<sup>rd</sup> February 2015, there was no recommendation to guide the Interest Rates upwards and even in the event of being decided that the Interest Rates should be guided upwards, it should have advocated the policy of gradualism. Sudden shock to Interest Rates will create implications to the economy.

- 6] Dr. Weerasinghe stated that the CBSL carries out the agency functions on behalf of the government in raising Public Debt at the least possible cost with prudent risk, subject to Monetary Policy considerations. The witness said CBSL has been issuing Treasury Bonds since 1997 initially it was the Auction System

and gradually moved to Direct Placement almost 90% and that his point of view is that, there should have been more transparency in the operation of the Direct Placements system.

Dr. Weerasinghe stated that after the change made in February 2015, there were a lot of discussions that the earlier system was not transparent and that was basically subject to certain manipulations.

7] In answer to Questions from the Commission, the witness agreed that the Direct Placement system gives the Central Bank the ability to control the Interest Rates, when raising funds by accepting Direct Placements and that, the downside of Direct Placements is the lack of transparency and a fair amount of discretion eventually ending up in the hands of the officers who actually implement the system and the possibility of an asymmetry of information being given to the Participants in the Market. The witness also agreed, as stated earlier, that 80% to 85% Direct Placements and only 15% to 20% Auction based Treasury Bond issues has been undesirable and that an Auction based System would have been preferable with checks and balances.

8] Dr. Weerasinghe stated that he has not seen any Board Paper other than that in 2008 which discusses the acceptance of Direct Placements.

The witness said that, in a 100% Auction System, a Central Bank should have a very competitive Market and a number of participants so that one or two individual participants cannot influence the Market.

The witness' position is that, even in very developed competitive Markets, Hybrid Systems are used.

The witness stated that, in 2015 and in 2016, there was volatility in the long-term Yield Curve and the CBSL had lost control of the Yield Curve and that, the movement of Interest Rates in the Market was inconsistent with the Monetary Policy objectives and has weakened the Monetary Policy transmission mechanism.

The contention of Dr. Weerasinghe is that the above situation emerged as a result of the suspension of Direct Placement in February 2015.

The witness briefly explained the implications when the Treasury wants money advanced by the CBSL by issuing Treasury Bills: *ie:* - by printing money. He said that, the CBSL presses the Government to return the money early so that the immediate impact of pumping a lot of money into the Market will be negated within a short period.



His view is that the decision to stop Direct Placements would have been made after careful study and with the approval of the Monetary Board.

9] The witness expressed his views as to how to deal with the “bunching” issue in the Central Bank Debt Profile, as very high amounts are to be repaid in four to five years.

10] Dr. Weerasinghe stated that the CBSL has printed historically the highest amount of money during the last two years.

Dr. Weerasinghe stated that the Minutes of the Monetary Board Meeting held on 23<sup>rd</sup> February 2015 stating “*explore the possibility of issuing 30 year Treasury Bond.....*”, is a correct reflection of what was discussed and said that he did not see a major problem with issuing a 30 Year Treasury Bond at that time.

11] The witness said that on 27<sup>th</sup> February 2015, after the Corporate Management Committee meeting around 12 noon, the Governor had invited the witness and Deputy Governor, Mr. Ananda Silva to the PDD. The witness remembers that Ms. Seneviratne, Superintendent of Public Debt, Dr. Aazim and Ms. Muthugala, Additional Superintendents of the PDD were there and the Governor had asked how the auction was. Dr. Aazim had said that Bids to the value of approximately Rs.20 Billion had been received and Dr. Aazim had gone on to explain about the Rates quoted and the Governor had proposed the acceptance of Rs. 20 billion. Dr. Aazim had started explaining why the CBSL should not take Rs. 20 Billion and justified the acceptance of Rs. 2.6 Billion which was initially proposed. Then the Governor had asked what the WAYR was at the last auction in May 2014, and was told that it was 11.75%. Then Governor had suggested that they accept around Rs.10.0 Billion at a comparable rate to 11.73%. The witness stated that the Governor had given a firm instruction, and mentioned that the witness agreed with Dr. Aazim’s arguments. The witness stated that there was no justification from the point of view of the Monetary Policy and the point of view of the Government. There was no reason to raise that amount of money on a long-term basis at a very higher cost.

10] In reply to questions from the Commission, the witness stated he agreed with Dr. Aazim’s reasoning and when Dr. Aazim said that they should get the opinion of the two Deputy Governors, the witness and other Deputy Governor had not responded but kept silent. The Commission said that if both Deputy Governors were firm and expressed their opinion the situation would have been different.

The Governor had instructed them to accept around Rs.10.0 Billion and had stated that Direct Placements had been stopped and that he wanted to push Interest Rates up to the pre-September level. The witness’s contention is that

from the point of view of the Monetary Policy, they never look back and it is a forward banking monetary policy perspective.

In reply to a question from the Commission, witness said that the cost of a bond placed in an auction depends on the secondary market rate, if there were Direct Placements for the same series in the recent past, whether there were people willing to buy at those rates and the overall monetary policy stance.

The witness was referred to Marked Documents “C39” and “C391” wherein the former Governor has made minutes to raise Rs. 40.0 Billion through 20, 30 and 50 year bonds of ten million each.

The witness stated that after the rates shot up it was evident that it was not a prudent decision. Then the witness was referred to the minute which requests the EPF, NSB and SLIC to stabilize Interest Rates. His position is that the PDD has authority to request EPF, NSB, SLIC to subscribe to these amounts at any given rate. As far as the third minute as to revert rates to pre-September 2014 Treasury Bonds is concerned, it is not a sensible decision and in fact these recommendations had never been discussed at the Monetary Board and are not consistent with the upward movement of Interest Rates.

The Witness stated that at the end of 2015 the Monetary Policy Committee identified the need to change the Interest Rate structure and in that direction the Statutory Reserve Requirement was increased and both policy rates and market rates had been gradually increased.

- 11] Dr. Weerasinghe was referred to Marked Document “C39(3)” and the cash flow requirement of Rs.122.0 Billion in April 2016 and the first auction on 17<sup>th</sup> March and the other on 24<sup>th</sup> March i.e. two auctions were cancelled and in the other auction Rs. 40 Billion was offered and Rs. 77.0 Billion was accepted. The witness stated that it provided opportunities for some of the primary dealers to collude with each other and take the maximum benefit out of that situation.

The witness was referred to Annual Report 2016 – Chapter I – last sentence.

*“the impact of replacing the mixed system of auctions and direct placements to raise funds for the Government with purely auction based system, where direct placement of Treasury Bills were made only in the Central Bank also contribute to the increase in Interest Rates on Government Securities”.*

- 12] Dr. Weerasinghe said regarding the transfers, that the Director Human Resources had showed him the Governor’s proposals to change Heads of Department. The witness stated that he was shocked and some of the transfers were not appropriate knowing the background of the officers. The witness

stated that the new Governor has the right to shake up / change the staff but those are important decisions and a consultative process with senior management to identify their suitability should have been resorted to, prior to giving effect to the transfers.

In reply to a question from the Commission, the witness stated that there was no need to monitor more closely the performance of officers of the PDD, but obviously after he moved in, there were lot of discussions in the media that the earlier system was not transparent and they wanted a transparent system.

- 13] Dr. Weerasinghe said that the Auditor General's Report was finalized on the basis of their comments and said that major concerns raised were reflected in the main body of the Report.

The witness stated that concerns about Footnotes in the COPE Report were raised by three officers and the then Governor said that to take all these comments together and submit a Report, which was signed by the three officers and submitted to the Governor. Then the Governor had tabled them at the Monetary Board Meeting and asked the Secretary to send it to COPE with a covering letter. The witness said he takes the responsibility for the document and stated that he agreed with the comments.

In reply to question from the Commission, witness said that the three officers of the PDD were namely Mrs. Seneviratne, Dr. Aazim and Mrs. Mutugala, who had submitted their observations and the witness had added to it and on the direction of the Monetary Board had sent it to COPE. This was sent by the Secretary to the Board.

After sometime, the Monetary Board in response to media Reports, that the CBSL has sent a contradictory Report to the COPE and after discussion within the Monetary Board, decided that the Governor should send a letter to COPE to disregard the letter that was sent earlier by the Secretary and to officially disassociate itself from the contents of the document.

- 14] In reply to questions raised by Mr. Nihal Fernando P.C. appearing on behalf of M/s Perpetual Treasuries Ltd, the witness explained the differences between Monetary Policy and Fiscal Policy and said that the CBSL is responsible for the implementation of Monetary Policy and the Ministry of Finance is responsible for the implementation of Fiscal Policy. The witness replied several questions on fiscal easing and fiscal tightening. The witness disagreed with the suggestion made to him stating that during 2016 and the beginning of 2015, Interest Rates and exchange rates were unrealistically controlled by the CBSL.

- 15] The witness said that the total investment of Foreign funds in Sri Lanka went up to a peak of Rs. 4.1 Billion Dollars in mid-2013 and had then started exiting in or around May 2014 and agreed that the Sri Lanka Rupee was under some pressure throughout 2014/2015. The Counsel stated there was debt obligation of around \$300 Million for IMF payment, foreign sovereign bonds etc. in the first quarter of 2015 to which the witness declined to answer without looking into the relevant documents.

In reply to questions from the Counsel, the Witness said that he was not responsible for the supervision of the PDD and that the PDD raised funds through private placements at 80.2% in 2013, 96.8% in 2014, 95.9% in 2015 which was not in line with the Public Debt Manual.

- 16] The Counsel asked what Dr. Weerasinghe's opinion was on taking the same amounts at two auctions which were cancelled in March 2016, as Mr. Sarathchandra in his evidence had justified that it was the best scenario not to accept those bids at those auctions. The witness wished not to answer. Questions were asked about RTGS and ILF systems and facilities and the penalty paid by the PTL and the refund made to PTL due to appreciation in the value.

Mr. Harsha Fernando, Counsel appearing on behalf of Mr. Samarasiri pointed out that the witness placed significant amount of reliance on the Agency Function to control Interest Rates. The witness said that there should be proper macro fiscal co-ordination. The Counsel's contention was that depending on the Public Debt function is contrary to the purposes of the Monetary Law Act.

- 17] Mr. Harsha Fernando pointed out that chairing the Market Operations Committee by Deputy Governor is not quite correct as it is a Committee operating at a lower level. Dr. Weerasinghe has been chairing the Market Operations Committee Meeting for over two years and these ad hoc arrangements have been an issue before this Commission.

The Counsel suggested that there was a possibility of submitting forced bids by the EPF at the auctions and based on that Weighted Average rate, funds could have been raised by Private Placements and the witness disagreed. The witness stated that some of the officers have a control mentality and that they don't believe in public auctions, but officers of the CBSL influence or encourage EPF to submit bids and take the largest amount, then artificially create Interest Rates to be used for private placements. The Counsel's position was that there was market distortion. The witness disagreed with this position.

- 18] Then the Counsel referred the witness to Auditor General's Report dated 16<sup>th</sup> January 2017 submitted in terms of Section 43, Subsection 2 of Act No. 58 of 1949 – Volume 6.

The Counsel pointed out that M/s Entrust Securities have been issued Treasury Bonds for Rs.45.0 Million at a discount rate of Rs.65.4074.

Another instance where M/s First Capital has been issued at a discount of Rs.81.4462 again same bond issued at Rs.81.4419.

Again M/s Wealth Trust Securities Ltd. have been issued Rs.1.9 Billion at a discount rate at Rs.68.3184.

Again, First Capital Treasuries Ltd. was issued Rs.3.0 Million at a discount rate of Rs.65.1473. The Counsel stated that these issues highlight the issuances of possible failures and probable abuse in the Private Placement System.

The Counsel further said that Auditor General has found an extremely large number of abuses, possible abuses that occur through the Private Placement system, which was finally stopped in February 2015.

- 19] In reply to a question from the Commission, the witness said that the officers of the CBSL could have invested their own funds through Primary Dealers, but that he is not aware.

The witness stated that there was no requirement for the officers to disclose it to the bank, but they are expected to disclose in their declaration of Assets and Liabilities at the end of each year and it is a confidential document that no one can look at unless there is some complaint.

The witness was referred to the Budget Speech where it was proposed to take out the Public Debt Management function from the Central Bank. The witness said that the proposal is to take the Public Debt function out of the agency functions performed by the CBSL.

- 20] The witness replied to questions on the removal of the 5% penal rate by the Market Operations Committee on 27<sup>th</sup> February 2015 around 10.00 a.m. and their impact on Interest Rates.

Again, in April 2015, Policy rate cuts by 50 basis points was announced. In December 2015, February 2016 and on 28<sup>th</sup> July 2016 tightening of Monetary Policy by increasing the policy rate was announced.

In reply to a question by the Counsel, the witness said that there were no guidelines as to how to set policy rates and no specific regulation or law, but that the CBSL is accountable to Parliament.

- 21] Mr. Chanaka de Silva, Attorney-at-Law, Counsel appearing on behalf of Mr. Arjuna Mahendran referred the witness to the evidence given by Dr. Indrajith Coomaraswamy, that one way of trying to solicit the advantages of Direct Placements and auctions systems is to address the disadvantages and create a hybrid system with an appropriate balance between the two systems so that the auctions component is large enough to ensure the proper discovery of prices through market forces.

The witness agreed with the above evidence and also agreed to the fact that 80- 90% which is raised by way direct placement will not be seen in the auction systems. The witness agreed that his exposure to Public Debt was only three years when he was the Chairman of the Tender Board and he was also sitting at the Monetary Board Meetings.

Dr. Weerasinghe said that Mr. Nivard Cabraal at his last meeting on 12<sup>th</sup> January 2015 as Governor, had designated the witness to function as the Senior Deputy Governor and Acting Governor.

The witness accepted the depletion of foreign reserves from \$9.73 billion to \$7.261 Million due to the re-payment of foreign Bonds US\$ 500 million from July 31, 2014 to 31<sup>st</sup> January 2015 and the impact of the removal of the penal rate of interest at 5% on 27<sup>th</sup> February 2015 on interest and issue of REPO and Reverse REPO to mop up liquidity or to pump money to the system.

- 22] Dr. Weerasinghe said that the Market Operations Committee's decision is practically given effect to, i.e. MOC decides to conduct auctions of Treasury Bonds, it is immediately announced to the market and the Governor's approval comes much later. They may have discussed on a previous day and got the concurrence from the Governor. If there is a significant change, Governor's approval is obtained before implementation. In reply to a question from the Commission, the witness said that the Governor has the authority to amend the decisions of the MOC and that of the Tender Board.

- 23] The Board approval was given to issue Treasury Bonds by Direct Placements to EPF and other captive sources at 5 basis points beyond the secondary market rate. The witness stated that he cannot comment on how that decision was implemented as he was not involved in that implementation process. He agreed that if anyone has given higher than 5 basis points to any buyer it would be a violation of the Board decision. The witness said that raising public debt on 100% Auction basis need to be operated within clear transparent rules to



minimize the room for manipulation. The witness said nothing has been done after 2008 in terms of the issuance of Bonds.

- 24] In reply to the Commission, the witness agreed with regard to positive steps to be taken to include controls in the dealing room by way of access, separation of different divisions, prohibition on mobile phones, recording all telephone conversations, installing CCTV. The witness also agreed to have a rigorous system of monitoring assets and liabilities, banking transactions and some element of intrusion into the private life of all involved in market activities in the Bank.

The witness said that about 30% of secondary market transactions are reported through Bloomberg Platform, while 66% to 70% is not reported.

Dr. Weerasinghe stated that the Bank requested technical assistance from IMF, World Bank on the basis of the Monetary Board decision after the present Governor was appointed and there were several discussions, consultations and after that a very comprehensive and useful Report was received. The Report was discussed in camera.

- 25] In reply to question from the Commission, the witness stated that the Head of Internal Audit reports directly to the Governor and the Board Sub-Committee. Internal Audit Department consists of normal staff rotated from time to time. Head of the Internal Audit and its staff are permanent Bank employees and they are transferred.

They are independent as far as Reporting is concerned. It was pointed out that Bank of Ceylon and People's Bank, have appointed a Head of Internal Audit from outside. This Department should have sufficiently senior independent officers to deliberate with the Monetary Board and the Governor. The witness agreed that the Head of the Internal Audit Department should be elevated to the level of an Assistant Governor.

- 26] The witness stated that he was asked to prepare a Report at the Breakfast Meeting held on 26<sup>th</sup> February 2015 at the CBSL. He admitted that there were outstanding payments reflected in his Report, but said that he can't recall the outstanding amount exactly, and that it was probably Rs.76 Billion and stated that the immediate requirement was Rs.15.0 Billion. The Counsel for Mr. Arjuna Mahendran produced a letter marked "**AM22**", a letter from the Minister of Finance confirming that he requires Rs.75 Billion. This letter is not dated and is not addressed to anyone in particular. Dr. Weerasinghe accepted the urgency of the funds requested and referred to a meeting with each contractor who were asked whether they were willing to take a cut, give discounts and the net amount payable. He recalled that there were around 30 to 40 contractors.

- 27] Mr. Chanaka de Silva, Attorney-at-Law questioned the witness as to the decisions of the Market Operations Committee and the rates recommended by them.

The witness was questioned as to the necessity to continue to chair the Market Operations Committee meetings and he said that now he goes whenever he is free to listen and to update his knowledge.

The witness stated that Mr. Mahendran was not involved in day to day operations, but he called and got clarifications and made suggestions.

Mr. Cabraal, as Governor, was involved in the day to day management of Exchange rates and he hadn't allowed anyone else to make that decision. The witness also stated that the former Governor was not too involved with Interest Rates in general, but that he was involved in Interest Rates at the Monetary Policy Committee Monthly Meetings.

The witness said the Governor Mr. Mahendran came to Market Operations Committee meetings and discussed with them and said that he wanted to increase the Interest Rate in order to attract foreign investors. He was referred to the Financial Times article where it has been stated that the Foreign Reserve as at 31<sup>st</sup> December 2014 was \$ 8.2 Billion dropped to \$ 7.2 Billion as at 31<sup>st</sup> January 2015. Out of 1.0 Million, 500.0 Million paid from the reserve and the balance was paid by selling reserves to Government to defend the currency.

- 28] In reply to question from Mr. Chanaka de Silva, Attorney-at-Law , the witness said that he did not consider the approval of the Monetary Board a pre-condition for implementing 5% penal interest removal, because the Governor wanted to implement this on an immediate basis and it was his position that it could be submitted for ratification.

It was put to him that it was duty bound on the part of the witness, as the Governor was new to Office, to inform the Governor that the requirement for Monetary Board decision is a pre-condition and should have been pointed out to him. The witness said that he didn't consider it a pre-condition. The 5% penal rate interest was ratified by the Monetary Board on 08<sup>th</sup> March 2015 and was properly sanctioned.

- 29] Mr. Chanaka de Silva, Attorney-at-Law, Counsel appearing for Mr. Arjuna Mahendran questioned the witness about the discussion the Governor, the witness and Mr. Ananda Silva had in the Public Debt Department with the Superintendent of Public Debt and the two Additional Superintendents. The witness stated that Dr. Aazim was arguing with the Governor and that he had

the bid sheet in his hand. After the discussions, the witness had gone to his Office.

The witness was asked whether being Senior Deputy Governor he didn't consider it appropriate to tell the Deputy Governor Mr. Samarasiri, and the witness said he did not go to that extent.

In reply to the Commission the witness said that a new proposal is on the line to introduce competitive bids and non-competitive bids.

It was pointed out to the witness that Mr. S.S. Ratnayaka, Assistant Governor was the Superintendent of Public Debt and prior to his appointment as Superintendent, he never worked in the PDD and he managed well. The witness's position was that in terms of exposure to the relevant area Mr. Ratnayaka was more competent. Further, the Governor proposed to appoint Dr. Aazim as Director Economic Research Department and Dr. Weerasinghe had different views about that and Dr. Aazim was not posted as Director Economic Research.

- 30] The witness was referred to Mr. Mahendran relinquishing office on 30<sup>th</sup> June 2016, until the inquiry was over and Mr. Samarasiri was nominated as Senior Deputy Governor and at that time he had informed that there was no possibility to appoint Senior Deputy Governor beyond the terms of the current Governor. When Mr. Nivard Cabral resigned and the witness was appointed he did not raise the provisions in the Monetary Law Act.

The witness agreed that when Mr. Nivard Cabral resigned there was no Governor, but the witness was acting as the Senior Deputy Governor at that time and it was outside the provisions of the Monetary Law Act. In the same way, after Mr. Arjuna Mahendran's terms expired, there was no Governor and the Deputy Governor acting as Senior Deputy Governor would equally be outside the provisions of the Monetary Law Act. Mr. Chanaka de Silva appearing for Mr. Mahendran said that Dr. Weerasinghe had malice and ill will towards Governor Mahendran which could be seen from the entirety of the evidence given, which was a submission that the witness denied.

In reply to the Commission, Dr. Weerasinghe said that there was unprecedented printing of money following the Bond auctions in February 2015 and the termination of Direct Placements.

The witness was referred to Annual Reports of the CBSL, 2014 and 2015, where Reserve Money i.e. total amount of money released to the economy was Rs. 477.9 Billion in 2014 had gone up to Rs. 673.4 Billion in 2015. The growth of reserve money in 2014 was 18.3%, in 2015 was 16.5%, and in 2016 was 27.1%.

In reply to questions from the Commission, the witness said that the Internal Audit Department did not find out the deficiencies pointed out and CBSL did not have an independent Internal Audit Department. The witness said that explanations must be called for, from the officers concerned for the deficiencies pointed out in the Auditor General's Report on Direct Placements.

**Section 5.23** - **Hon. Sunil Handunetti, MP**

Hon. Sunil Handunetti, MP is the Chairman of the COPE of the Eighth Parliament.

The relevant evidence of this witness is:

- 1] On 06<sup>th</sup> May 2016, the COPE of the Eighth Parliament decided to collectively inquire into the issue of Treasury Bonds in the first Quarter of 2015 and all matters related thereto and to submit a Report to Parliament.
- 2] Thereafter, COPE instructed the Auditor General to investigate the issue of Treasury Bonds in the first Quarter of 2015 and all matters related thereto and to prepare a Report to be submitted to Parliament.
- 3] The Auditor General had carried out this task and submitted a Report to the Hon. Speaker on 29<sup>th</sup> June 2015.
- 4] After considering the Report, the Hon. Speaker forwarded the Report to COPE.
- 5] In the meantime, inquiries by COPE commenced on 08<sup>th</sup> June 2016 and continued till 26<sup>h</sup> October 2016. COPE met on 12 occasions during this period for the purpose of the inquiry. At 4 of these sessions, the evidence of 23 witnesses was heard. On the other days, COPE deliberated on the evidence and the matters to be stated in the Report.
- 6] The Report of COPE was submitted to Parliament on 28<sup>th</sup> October 2016.
- 7] The Report of COPE consists of 13 volumes.
- 8] The findings and recommendations made by COPE are in Volume 1, which was marked "**C90A**".
- 9] The other 12 volumes were marked "**C90B1**" onwards.
- 10] 15 members of COPE had agreed to the entirety of the draft Report drafted by the witness.

9 members of COPE had some different views with regard to a few specific areas of the draft Report or wished to make clarifications with regard to those specific areas

In this connection, when the Commission of Inquiry asked whether there were different opinions [“මත”], the witness replied, “ඇත්තටම ගරු සභාපතිතුමනි, ඒකෙ මත වලට වඩා පැහැදිලි කිරීමිවල වෙනස්කම තිබුනෙ.”.

After discussion, it was agreed that, the draft Report prepared by the witness would be regarded as the Report of COPE, subject to the inclusion of Footnotes which would set out the differing views or clarifications which the aforesaid 9 members of COPE wished to include in the Report in relation to those specific areas.

In this connection, when the Commission of Inquiry asked the witness whether the Footnotes to the Report should be understood in the context explained by the witness, he replied, “ඒ කියන්නේ පාද සටහන් ඒ යනුවෙන් තේරුම් ගත යුතුයි. ඒ වගේම ඒ පාද සටහන් වලට එකඟ නොවී සම්පූර්ණ වාර්තාව මම සභාපතිවරයා හැටියට කාරක සභාවට ඉදිරිපත් කරපු කෙටුම්පත් වාර්තාවම වාර්තාව හැටියට පිලිගන්න පිරිසක් හිටිය. 15 දෙනෙක්. 9 දෙනෙක් මම ඉදිරිපත් කරපු කෙටුම්පත් වාර්තාව පාද සටහන් සහිතව පිලිගැනීමට එකඟ වුනා.”.

When the Commission of Inquiry then asked the witness, “ඒ කියන්නේ ඒ 9 දෙනාගෙ අදහස එහෙනම් ඒ පාද සටහන් වලට අදාල විශේෂ කරුණු සම්බන්ධයෙන් ඔවුන්ගේ අදහස් පාද සටහන් වල අඩංගු වෙනවා. හර්නෙ.”, the witness replied, “පැහැදිලියි.”.

- 11] The witness emphasized that all 24 members of COPE who actively participated in the inquiry, unanimously agreed to all the Recommendations set out in the Report.
- 12] All 24 of these members agreed that, the Report with Footnotes, should be submitted to Parliament.
- 13] The witness stated that, Hon. Dr. Harsha De Silva, MP worked together with the witness in preparing the final Report.
- 14] In reply to questions from the Commission of Inquiry, the witness stated that, COPE was of the view that, the Auditor General’s computations which estimated that an “Immediate Loss” of Rs. 688.538 million was caused by the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and that an “Immediate Loss” of Rs. 784.898 million was caused by the Treasury Bond Auctions held in March 2016 and the assumptions upon which these two computations were made, are reasonable and should be accepted.

In this connection, when the Commission of Inquiry asked the witness, “දැන් විගනකාධිපතිවරයා ක්ෂණික අලාභයක් ගන්නය කරල තියෙනවානේ සාක්ෂිකරු?”, the witness replied in the affirmative. Thereafter, in response to the question, “එතකොට ඒක ඒ තර්කය ඒ ක්ෂණික අලාභය ගන්නය කිරීමේදී ඔහු විගනකාධිපතිවරයා භාවිතා කරපු පදනම සාධක අනුව ඒ ක්ෂණික අලාභය ලැබුනා කියල කෝප් කමිටුව

පිලිගන්නද?”, the witness replied, “පිලිගන්නවා මොකද විගණකාධිපතිතුමාගේ ලේඛනය පදනමක් හැටියට පිලිගන්නකොටම එම අලාභයන් පිලිගන්නවා.”.

- 15] In reply to questions from the Commission of Inquiry, the witness stated that, COPE had not examined the “*long term losses*” or “*optional losses*” which are referred to in the Auditor General’s Report. [It should be noted there that the Auditor General’s Report only makes a passing reference to the possibility that there would have been such losses but makes no examination thereon]

In this connection, when the Commission of Inquiry asked the witness, “ඒ කියන්නේ ඉමේඩියට් ලොස් එකක් කියලා ඒක ඊට පස්සේ විගණකාධිපතිවරයා ඉදිරියේ විය හැකි පාඩු වශයෙන් අලාභ වශයෙන් යම් යම් තර්ක ඉදිරිපත් කරලා තියෙනවා. ඒ විය හැකි පාඩු නැත්නම් අනාගතයේ පාඩු සම්බන්ධයෙන් කෝප් කමිටුව වෙතම විමර්ශනයක් හෝ”, the witness replied, “එහෙම විමර්ශනයක් කරලා නැහැ.”.

**Section 5.24 - Mr. M.S.D. Ranasiri**

Mr. Ranasiri was the Director General of the Treasury Operations Department of the Ministry of Finance from 15<sup>th</sup> December 2010, until his retirement. He served in this capacity in the year 2015.

The relevant evidence of this witness is:

- 1] Each month the Treasury Operations Department prepares a Cash Flow Statement setting out the funds that have to be raised in the next month by way of Public Debt.

The Treasury Operations Department then sends this Cash Flow Statement to the PDD, so that the PDD can raise the required funds by way of Public Debt.

- 2] As set out in the monthly Cash Flow Statement, marked “**C12A**” prepared by the Treasury Operations Department and sent to the PDD, a sum of Rs. 172 billion had to be raised by way of Public Debt, in the month of March 2015. This included a sum of Rs. 13.55 billion which was required on the 02<sup>nd</sup> of March 2015.
- 3] The Director General of the Treasury Operations Department or a representative, is required to attend the meetings of the Domestic Debt Management Committee of the CBSL, to coordinate the raising of required funds by way of Public Debt.

However, Mr. Ranasiri acknowledged that he had not attended the meetings of the Domestic Debt Management Committee in the year 2014. Mr. Ranasiri made a reference to some meetings being held during this period by the



Secretary to the Treasury at the Ministry of Finance, but he was not clear as to the exact nature of these meetings.

In any event, the witness clearly stated that, due to official commitments, he did not attend the meetings of the Domestic Debt Management Committee in the months of December 2014, January 2015 and February 2015.

However, he stated that he had attended the meetings of the Domestic Debt Management Committee, from the month of March 2015 onwards.

- 4] Mr. Ranasiri stated that, the quantum of funds required by the Government for Expenditure during a month, is set out in the monthly Cash Flow Statement prepared by the Treasury Operations Department and sent to the PDD.

He stated that, if a requirement for additional funds arises during a month, the Treasury Operations Department estimates such requirements and advises the PDD, in writing.

- 5] Mr. Ranasiri said that he was not aware of any instance where the Treasury had required the PDD to raise additional funds without following this procedure.

- 6] The witness marked as “**C114**”, a Schedule setting out the amounts that the Treasury Operations Department had requested the PDD to raise by way of Public Debt for each month during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016 and also the corresponding amounts raised by the PDD during those months.

- 7] When the witness was shown the document marked “**AM22**”, which was produced on behalf of Mr. Mahendran, the witness stated that he was unaware of that document, but recognized the signature as being that of Hon. Ravi Karunanayake, MP, the then Minister of Finance.

Mr. Ranasiri also stated that he was unaware that the Treasury had required that a sum of Rs. 75 billion, which is referred to in the document marked as “**AM22**”, be raised.

- 8] Mr. Ranasiri stated, that in situations where a State institution requests additional funds, that State institution would make a formal request to the Treasury, so that the Treasury could consider the request in accordance with the usual Procedures.

He said that in such cases, requests for additional funding would have to be submitted to the Cabinet for approval and, where necessary, a Supplementary Estimate would have to be passed.

He states that he was unaware of such steps being taken by the Treasury to raise the funds referred to in “**AM22**”.

- 9] Mr. Ranasiri recalls that there had been a meeting at the Ministry of Finance in March 2015 to discuss several unpaid Bills which had been submitted by Contractors who had carried out Road Project in the past years. He said that, these claims were discussed at this meeting. However, he could not recollect any firm decisions being made, at the meeting.
- 10] In response to a question by Mr. Chanaka de Silva, Attorney-at-Law, counsel appearing on behalf of Mr. Mahendran, the witness stated that, as set out in “**C114**”, the funds raised by the PDD in the month of February 2015 had fallen short of the funds required for that month and that had been a shortfall of approximately **Rs. 8.5 billion**.

Mr. Ranasiri said that, as set out in “**C114**”, there was also a shortfall in the funds raised in the month of January 2015.

However, he went on to state that such shortfalls were not unusual and that the Treasury Operations Department would make arrangements to obtain the required funds from any additional Revenue that may have been received during that month or by setting off the shortfall against any reduction in Expenditure that may have been achieved in that month or by drawing on the Overdraft Facility with the two State Banks.

- 11] In response to a question from the Commission of Inquiry, Mr. Ranasiri stated that, in months where there had been a shortfall in the amount raised by the PDD, the required amount had been funded in the manner set out above.
- 12] Mr. Ranasiri stated that, in any event, such shortfalls are not carried forward to the funding requirement which the PDD is asked to raise in the following month.

**Section 5.25** - **Hon. Dr. Harsha de Silva, MP**

Hon. Dr. Harsha de Silva is a Member of Parliament. He was a member of COPE of the Eighth Parliament, which inquired into the Treasury Bonds issued in the first Quarter of 2015 and matters related to that.

The relevant evidence of the witness is:

- 1] Dr. de Silva said that 15 members of COPE agreed to the entire Report and that 9 members, including himself agreed to the Report with the Footnotes.
- 2] He said that all 24 of these members of COPE had unanimously agreed to the Recommendations made in the Report.

- 3] When learned Senior State Counsel asked Dr. de Silva whether he would consider the Footnotes *“as qualifying concerns”*, he replied in the affirmative.

In response to a question from the Commission of Inquiry, Dr. de Silva said that the Footnotes were in the nature of *“clarifications”* or *“elucidations”*. The witness added that 9 members agreed to the *“Broad thrust of the Report, but we had some concerns which we brought into the footnotes.”*, which were written with regard to specific issues.

- 4] When Dr. de Silva was asked by the Commission of Inquiry to *“explain the process leading up to the insertion of those footnotes”*, he stated the following. *“Well what happened was, we sat as a group and then going through the Report rather drafting the COPE Report, based on the Auditor General’s Report, there were areas where some members sought (saw) a need for a clarification. So therefore, the members agreed after much discussion that those concerns be inserted into the Report as footnotes because all members were keen to agree on the recommendations as one group.”*

- 5] Dr. de Silva stated that, the Auditor General was present, for most of the time, during the preparation of the Report.

- 6] Dr. de Silva said that in the afternoon of 27<sup>th</sup> February 2015, he received a telephone call from a Primary Dealer, who had said, *“Something fishy went, is going on in the market.”* The witness had then spoken with Mr. Mahendran and conveyed what he had heard. Mr. Mahendran had replied saying, *“Harsha I don’t think there is any issue.”* Dr. de Silva added that, he thought Mr. Mahendran was being *“quite genuine”*.

- 7] In response to a question from Mr. Chanaka de Silva, Attorney-at-Law, appearing on behalf of Mr. Mahendran, Dr. de Silva said that there had been a meeting of the Economic Sub Committee of the Cabinet at which funding required for Road Projects was discussed, since it had been found that several Road Projects had come to a standstill due to a lack of money.

The witness agreed that a decision had been taken at that meeting of the Economic Sub Committee, that a meeting should be urgently convened at the CBSL, to discuss this issue and that the Minister of Finance should participate at that meeting.

- 8] In response to a question from Mr. Chanaka de Silva, Attorney-at-Law, Dr. de Silva said that the Auditor General had used the word *“අවබෝධය”* to describe the sums he computed as being the financial consequences of the Treasury Bond

Auction held on the 27<sup>th</sup> February 2015. He agreed with Mr. Chanaka de Silva, Attorney-at-Law that, the Auditor General had not used the word “අලාභය”.

- 9] When questioning Dr. de Silva, Mr. Chanaka de Silva marked as “AM37”, a letter dated 07<sup>th</sup> December 2016, issued by the World Bank. Dr. de Silva said that he had tabled a copy of this letter in Parliament.
- 10] Dr. de Silva said that COPE had wished to look into the Secondary Market Transactions conducted on the Treasury Bonds which had been issued at the Treasury Bond Auction held on the 27<sup>th</sup> February 2015.

However, despite two requests, the CBSL had not furnished this information and had said that this information was not available. These requests had been made both when Mr. Mahendran was Governor and during Dr. Coomaraswamy’s tenure as Governor.

Dr. de Silva said that, as a result, COPE could not investigate the Transactions in the Secondary Market and a recommendation has been made that, a Forensic Audit be carried out.

**Section 5.26** - **Ms. Mano Ramanathan**

Ms. Mano Ramanathan was appointed as a Member to the Monetary Board on the 06<sup>th</sup> of December 2007. She completed her first term in office in 2013 and was reappointed on the 13<sup>th</sup> of July 2013 for a further term. She is now serving her second term of office as a Member of the Monetary Board.

The relevant evidence of this witness is:

- 1] When Ms. Ramanathan was appointed in 2007, the other members were the then Governor, Mr. Nivard Cabraal, the then Secretary to the Ministry of Finance, Dr. P.B. Jayasundera, Mr. Tilak de Soysa and Mr. Nimal Welgama.
- 2] In early January 2015, Mr. Cabraal, Mr. Welgama and Mr. Umagiliya [who had been appointed in place of Mr. Tilak de Soysa] resigned.
- 3] Mr. Mahendran was appointed Governor in January 2015, and held that office till 30<sup>th</sup> June 2016. Dr. Indrajith Coomaraswamy was appointed Governor in July 2016.
- 4] From 09<sup>th</sup> January 2015 onwards until 10<sup>th</sup> April 2015, the Monetary Board had only three members, namely Mr. Mahendran, as the Governor, Dr. R.H.S. Samaratunga, as the Secretary to the Ministry of Finance, and the witness.

- 5] Mr. Jayatissa was appointed a Member to the Monetary Board on 10<sup>th</sup> April 2015 and Mr. Chryshantha Perera was appointed on 24<sup>th</sup> June 2015.
- 6] When Mr. Jayatissa's term of office ended, Mr. Nihal Fonseka was appointed a Member to the Monetary Board.

When learned Senior Additional Solicitor General asked Ms. Ramanathan to describe the decision-making process of the Monetary Board during Mr. Mahendran's tenure as the Chairman, the witness stated that, *"In the first few months after his appointment there wasn't a full board complementary, full board there wasn't. There were only three members that's myself, Dr. Samaratinga and the Governor, and Governor was the Economic expertise therefore he played a dominant role as the Governor of the Central Bank."* She clarified that she was speaking of the period February, March and early April of 2015.

- 7] Ms. Ramanathan said that *"there were more lively discussions"*, after the appointment of Mr. Jayatissa and Mr. Perera to the Monetary Board.
- 8] When the Commission of Inquiry asked Ms. Ramanathan to describe the role played by Mr. Umagiliya and Mr. Welgama in the proceedings during their term in office, she said that, *"they did not contribute much at that time, Your Lordship."* and continued to say that they had comparatively little knowledge about Economics and Finance.
- 9] Ms. Ramanathan stated that, Dr. P.B. Jayasundera, then then Secretary to the Treasury, contributed *"largely"* to the discussions of the Monetary Board during his time in office.
- 10] When Ms. Ramanathan was asked to describe the decision making process of the Monetary Board since July 2016, she stated that, *"there's very much deliberations, contributions and discussions are taking place, Your Lordship."*
- 11] In response to a question by the learned Senior Additional Solicitor General, Ms. Ramanathan stated that, the Monetary Board did not order any investigation or inquiry with regard to the Treasury Bond Auction held on the 27<sup>th</sup> February 2015, although she acknowledged that there had been a *"public outcry"* with regard to that Auction.
- 12] In response to learned Senior State Counsel, Ms. Ramanathan said that no decision had been taken by the Monetary Board on 23<sup>rd</sup> February 2015, to issue a 30 Year Treasury Bond and that, instead, discussions were held to explore the possibility of issuing a 30 Year Treasury Bond.

However, when Mr. Harsha Fernando, Attorney-at-Law, appearing on behalf of Mr. Samarasiri, questioned Ms. Ramanathan, in some detail, about the proceedings at the meeting of the Monetary Board meeting held on 23<sup>rd</sup> February 2015 with regard to the issue of a 30 Year Treasury Bond and the Commission of Inquiry asked Ms. Ramanathan, if she had a clear recollection of these events, she said that she did not.

Further, when she was questioned by the Commission of Inquiry whether she could fathom what Mr. H.A. Karunaratne meant by the phrase, *“Explore the possibility of issuing a thirty year bond ?”* which was in Mr. Karunaratne’s handwritten Notes, Ms. Ramanathan said that she could not.

In this connection when she was questioned by Mr. Harsha Fernando Attorney-at-Law, as to why she used the phrase *“explore the possibility”*, which was not in the Minute but only in Mr. Karunaratne’s handwritten Notes, Ms. Ramanathan replied, *“I have discussed with various officers.”* .

- 13] Ms. Ramanathan stated that, there had been no discussion at the Monetary Board meeting on 23<sup>rd</sup> February 2015 with regard to stopping or suspending Direct Placements.

In response to a question from the Commission of Inquiry with regard to the Report submitted to the Monetary Board on the Treasury Bond Auctions held in March 2016, Ms. Ramanathan stated that the Monetary Board was satisfied that those Auctions had been conducted properly.

- 14] In response to Mr. Chanaka de Silva, Attorney-at-Law, appearing on behalf of Mr. Mahendran, who referred to the question asked earlier by learned Senior Additional Solicitor General on the role played by Mr. Mahendran in the decision-making process of the Monetary Board, Ms. Ramanathan replied, *“Yes sir, I did not see anything wrong, The reason being my knowledge of Economics wasn’t as vast as his knowledge. He was an Economic expert. So I couldn’t have contradicted what he said. If you are to contradict or argue more on that, your knowledge should be better than that. I didn’t think my economics knowledge could equal his knowledge.”*

- 15] In reply to Mr. Chanaka de Silva, Attorney-at-Law, Ms. Ramanathan said that, the Monetary Board does not usually approve the issue of Treasury Bonds. She said that these decisions are taken by the PDD and are subsequently submitted to the Monetary Board, for ratification.

In response to a Question from the Commission of Inquiry, Ms. Ramanathan said that, there had been no discussions in the Monetary Board with regard to whether a conflict of interest would arise as a result of Mr. Mahendran’s son-in-



law, Mr. Arjun Aloysius, being a Director of the Holding Company of Perpetual Treasuries Ltd.

- 16] In response to a Question from the Commission of Inquiry, Ms. Ramanathan went on to state that there had been no discussions in the Monetary Board with regard to whether a conflict of interest would arise as a result of the former Governor, Mr. Nivard Cabraal's sister, Ms. Siromi Wickramasinghe, being a Director of the Holding Company of Perpetual Treasuries Ltd, in 2014.
- 17] In response to a Question from the Commission of Inquiry, as to whether either Mr. Cabraal or Mr. Mahendran had brought to the attention of the Monetary Board, the fact that a close relative was a Director of the Holding Company of Perpetual Treasuries Ltd, Ms. Ramanathan replied in the negative.

**Section 5.27** - **Mr. J.K.D. Dharmapala**

Mr. Dharmapala is the Chief Manager of the Risk Management Department of the Bank of Ceylon. He had been appointed as the Chief Dealer of the Bank of Ceylon in 2013 and had served in that capacity in 2014 and 2015.

The relevant evidence of the witness is:

- 1] Mr. Dharmapala said that Perpetual Treasuries Ltd was a customer of Bank of Ceylon from 2014 onwards and maintained two Current Accounts with Bank of Ceylon. Further, Bank of Ceylon and Perpetual Treasuries Ltd had engaged in a large number of Reverse REPO Transactions and SWAP Transactions. The Witness said that, Perpetual Treasuries Ltd had duly honoured these Transactions.
- 2] Mr. Dharmapala said that in terms of the Bank of Ceylon's Treasury Operations Manual, marked "C127", and in particular, Clause 4.1.1 of this Manual, there was no prohibition on the Bank of Ceylon from placing Bids at Treasury Bond Auctions on behalf of other Primary Dealers. The witness went on to say that, up to now, the CBSL has not issued a regulation or instruction prohibiting a Primary Dealer from placing a Bid on behalf of another Primary Dealer.
- 3] With regard to the Treasury Bond Auction held on 27<sup>th</sup> February 2015, Mr. Dharmapala stated that, the Bank of Ceylon had decided not to place Bids on its own account, since the Bank had no interest in obtaining 30 Year Treasury Bonds, at that point in time.
- 4] Mr. Dharmapala said that, on 27<sup>th</sup> February 2015, he telephoned the Kalutara Bodhi Trust, which was a customer of the Bank of Ceylon, and inquired as to

whether they were interested in placing a Bid at the Treasury Bond Auction, through the Bank of Ceylon. He had been informed that, the Kalutara Bodhi Trust was considering placing a Bid to the value of Rs. 8 million. Mr. Dharmapala had said that, he thought a Rate of about 9.20% or 9.25% would be a reasonable Rate that was likely to be accepted. In this connection, the Audio Recording of this telephone conversation, which commenced at 9.31am on 27<sup>th</sup> February 2015, was marked “**C133A**”.

- 5] Mr. Dharmapala had then telephoned the PDD at 9.35am and spoken with Ms. Srimali Fernando. Mr. Dharmapala asked for an “*indicative level*” at which Bids were likely to be accepted at the Auction. Ms. Fernando had mentioned a Rate of 9.35% as an indicative Rate for placing Bids and stated that Direct Placements had been recently made at that level. However, she had mentioned that it was possible Bids would be accepted at a higher Rate, at the Auction. Ms. Fernando had said, “අපිට හරියට ලෙවල් එකක් කියන්න බැහැ. ඊට වඩා උඩින් යයි. පොඩ්ඩක් මාකර්ට් එකක් බලලා රේට් එකට දාන්න කියන්න.”. The Audio Recording of this telephone conversation was marked “**C133B**”.
- 6] Thereafter, a representative of Ceylinco Insurance PLC had telephoned and said that they wished to place a Bid through the Bank of Ceylon at a Rate of 10%. Mr. Dharmapala had mentioned that he doubts whether a Bid would be accepted at this rate, but had, eventually, agreed to place the Bid at that Rate. During this conversation, he had stated that if the Bid was accepted at these rates, it would be profitable. He had used the phrase, “ආවොත් ඇතා” to describe that eventuality. In this connection, the Audio Recording of this telephone conversation, which commenced at 9.46am, was marked “**C133C**”.
- 7] Mr. Dharmapala said that, he had felt, at the time, that EPF would place a large quantum of Bids at the Auction and obtain the majority of the Treasury Bonds that were issued. He said that that had been the usual pattern at Treasury Bond Auctions.
- 8] Mr. Dharmapala had, thereafter, telephoned Ms. Steffie Fernando, to inquire about a Direct Placement and had been told that Direct Placements were not being accepted since an Auction was underway that day.

Since he wished to ascertain the Rates on behalf of Kalutara Bodhi Trust and Ceylinco Insurance PLC, Mr. Dharmapala had inquired the “*indicative level*” at which Bids would likely be accepted. She had then said that, Direct Placements of a 30 Year Treasury Bond had been made at 9.35%. She had said that, however, Bids could be accepted at the Auction, at a Rate higher than 9.35% and stated, “නැහැ නැහැ මිස්ට් ධර්මපාල ඔයාට ඕනෙ රේට් එකකට දාන්න. මේ පාර ඉන්ඩිකේෂන් කියන එකක් නැහැ ඇත්තටම. මිස්ට් ධර්මපාලට මේ ඕනේ කියලා මේවෙන රේට් එකකට දාන්න මිස්ට් ධර්මපාල. රේට් එකක් නැහැ. ඒ හින්දා රේට් ඩිරෙක්ෂන්නම් දුන්නේම

නැහැනු මේකට.”. In this connection, the Audio Recording of this telephone conversation, which commenced at 10.10am, was marked “**C133D**”.

9] Mr. Dharmapala stated that, at that time, he had had no knowledge that Direct Placements would be stopped on 27<sup>th</sup> February 2015.

10] At 10.13 am, Mr. Dharmapala had received a telephone call from Mr. Kasun Palisena, Chief Executive Officer of Perpetual Treasuries Ltd. Mr. Palisena had asked whether Perpetual Treasuries Ltd could submit some Bids through the Bank of Ceylon. Mr. Palisena had said that he wished to do so to facilitate the settlement of payments for Bids if they were accepted.

Mr. Dharmapala had readily agreed to this request since he felt that there was “*zero risk*” in bidding for Treasury Bonds. He had agreed, also due to the fact that, Perpetual Treasuries Ltd had always honoured previous Transactions and because the Bank had excess Liquidity amounting to about Rs. 20 billion, at the time. In this connection, the Audio Recording of this telephone conversation was marked “**C133E**”.

Pursuant to this conversation, Mr. Dharamapala had asked Mr. Palisena to send the details of the Bids, by email.

11] Mr. Dharmapala said that, Mr. Palisena had, thereafter, contacted him on his mobile phone and mentioned that Perpetual Treasuries Ltd would be placing a large quantum of Bids at Rates of 12.5% and higher. Mr. Palisena had stated that these Bids were being placed on behalf of an Insurance Customer and by Perpetual Treasuries Ltd for itself.

Mr. Dharmapala had thought that these Bids would not be accepted, due to the high Rates. In fact, he had thought that, these were “Dummy Bids”.

12] Thereafter, Mr. Dharmapala had contacted Ms. Steffie Fernando, since he had wondered whether EPF was bidding through Perpetual Treasuries Ltd and since he wished to try and get an idea of the Rates at which Bids would be accepted, at the Auction.

Mr. Dharmapala had said that he was submitting a Bid for a customer at Rs. 500 million at 10.25%. He had also said that, another customer had placed Bids for Rs. 3 billion at 12.5% and 12.75% and had said he was shocked by those Rates. Mr. Dharmapala had gone on to say that, if such Bids were accepted, it will not be possible to say where the Market will end up.

Ms. Fernando had not indicated any particular Rates and had had told him to place Bids at Rates he deemed appropriate. In this connection, the Audio Recording of this telephone conversation, which commenced at 10.39am, was marked “**C133F**”.

13] Mr. Dharmapala said that, he had received an email from Mr. Kasun Palisena at 10.48am, setting out details regarding Bids to the aggregate value of Rs. 13 billion to be placed at Rates of 12.5%, 12.75% and 13%. This email was marked “**C134**”.

Mr. Dharmapala stated that he was amazed at the Rates (“පුදුමයට පත් වුනා”). He had thought that such Bids would not be accepted and said that, these were, “පිලිගත නොහැකි බිඩ්ස්”. He had thought that they were “Dummy Bids”.

14] Mr. Dharmapala said that he had felt that the Rate of 10.25% at which he had decided to place a Bid on behalf of Ceylinco Insurance PLC, was a good Rate.

15] Thereafter, Bank of Ceylon had submitted the aforesaid Bids on behalf of Kalutara Bodhi Trust, Ceylinco Insurance PLC and Perpetual Treasuries Ltd, at the Rates that had been specified. The related Bidding Document was marked “**C128**”. These Bids had been placed at 10.57am.

16] Mr. Dharmapala said that, for the reason he mentioned earlier, he did not consider it necessary to obtain the approval of his superior officers before submitting the Bids on behalf of Perpetual Treasuries Ltd.

17] Bank of Ceylon had received a Bidding Commission of Rs. 234,000.00, on account of the Bids placed on behalf of Perpetual Treasuries Ltd.

18] After the conclusion of the Auction, Ms. Steffie Fernando of the PDD had telephoned Bank of Ceylon at 2.43pm with regard to the documentation of a Payment Agency Agreement.

During the course of this conversation, Mr. Dharmapala had expressed his shock at the high Rates at which Bids had been accepted at the Treasury Bond Auction. He had gone to the extent of saying that it was “*not ethical*” and had asked Ms. Fernando to send him a vial of poison.

Ms. Steffie Fernando had said, “*Mr. ධර්මපාල you won’t believe it is between you and me හරිද? Governor walked into the Department and told take this bid. Take at this level.*”.

She had also stated that this was a massive shock to the Market. [“*මාර shock එකක්*”].

When Mr. Dharmapala asked, “*ඇයි එහෙම කරන්නෙ ඉන්න?*”, Ms. Fernando had replied, “*ධර්මපාල අපි කොච්චර කිව්වත් ඩිසිස්න් එක ගන්නෙ එයානෙ.*”, and stated, “*බැ එහෙම බැ කියලා ඉන්න මෑන් එව්වර මෑන් ඇහුම්කන් දුන්නෙ නැහැ.*”.

Ms. Steffie Fernando had stated, “*අපිවත් හිතුවෙ නෑ මිස්ට් ධර්මපාල. You believe it or not. අපිවත් හිතුවෙ නෑ මෙව්වර යයි කියලා.....අපි මේකට වඩා අඩුවෙන් නමා ලිට්ස් කරල තිබ්බේ.*”.

Ms. Steffie Fernando had gone on to state, “හරිද? නිකන් මේ ගානට..... *Man walked into the Department said. No. What rubbish you are doing. Increase it. Give it at this level. You won't believe it. He wanted us to take all the bids.* අපි කිව්වා සර් ඔහොම කරන්න එපා එතකොට ඔක්කොම යයි. අපිට මෙතන වැඩ කරන්නම බැරිවෙයි කියලා.” .

She had stated further, “කොච්චර කිව්වද නෑ සර් *This market is not advanced*) මේක තමා උපරිම කියලා. මේගොල්ලො ගන්නෑනෙ. මේක දුන්නට පස්සෙ *two basis point.* තව උඩ යයි. එහෙමනෙ යන්නේ *Mr. ධර්මපාල කිව්වට ඉතින්. What can we do?*”.

In response to a question by the witness, Ms. Steffie Fernando had stated, “ඔයා දන්නෑ *Mr. ධර්මපාල කොච්චර Convince* කරන්න හැදුවද ඒක බෑ අරක බෑ සර් දිසිස් එයාට *between you and me Mr. ධර්මපාල කාටවත් කියන්න එපා එයා ඉන්නෙ අර International Market idea* එකේනෙ *Mr. ධර්මපාල He doesn't have an understand of our market no...* අපි දන්නවානෙ මෙහෙම දුන්නම මොනාද වෙයි කියලා.”.

In this connection, the Audio Recording of this Telephone Conversation was marked “**C133H**”.

- 19] Mr. Dharmapala stated that, after the results of the Auction were known, he felt that Perpetual Treasuries Ltd had received some inside information which caused them to place Bids to a value of Rs.13 billion when only Rs. 1 billion was offered.

He added that the Public Debt Department usually accepted only 2 to 3 times the amount offered. In this connection, in response to a question from the Commission of Inquiry he stated, “*Perpetual Treasuries* වලින් ලංසු ඉදිරිපත් කලේ කසුන් පලිසේන. යම් ආකාරයෙන් එම ආයතනයට යම් තොරතුරක් ලැබෙන්න ඇද්දැයි *Perpetual Treasuries* වලට යම් තොරතුරක් ලැබී ඒ නිසා ඔවුන් මේ ආකාරයෙන් බිඬි කලාද කියලා පස්සෙ මට හිතූනා.” .

Mr. Dharmapala added, “ස්වාමීනි, මේ වෙලදපොලේ සිටින වෙලෙන්දන් කටයුතු කරන්නේ තමන්ට ලැබෙන තොරතුරු පදනම් කරගෙන. විශේෂයෙන් දැන් රජයේ මූල්‍ය අවශ්‍යතාවය ඉතා විශාල එකක් නම්, ඒ විශාල මුදල් අවශ්‍යතාවයක් ඉතා ඉක්මණින් තිබේ යයි යම් කෙනෙකුට යම් තොරතුරක් ලැබුනොත් එහෙම ඒ කිට්ටුවෙන් තිබෙන්නාවූ කිට්ටුවෙන් ඉදිරිපත් කරන්නාවූ වෙන්දේසි සම්බන්ධයෙන් ඒගොල්ලො හිතනවා මේ සැරේ මේ වෙන්දේසියෙන් වැඩි ප්‍රමාණයක් මිලදී ගනු ඇතයි කියන එක.”.

- 20] The Audio Recording of a telephone conversation between Mr. Lasantha Premaratne of the Bank of Ceylon and a Money Broker named Madhura, which took place at 9.06am on 27<sup>th</sup> February 2015, was marked “**C133I**”.

Mr. Dharmapala said that, during this conversation, this Money Broker had said that he had information that Money Market Rates would go up on that day.

- 21] Subsequent to the events of 27<sup>th</sup> February 2015, Mr. Dharmapala had been required to show cause to a Charge Sheet and had received a Letter of Caution.
- 22] On 06<sup>th</sup> March 2016, the Management of the Bank of Ceylon had prohibited its Dealers from dealing with Perpetual Treasuries Ltd.
- 23] On 07<sup>th</sup> September 2015, the Board of Directors of Ceylon had issued revised limitations and regulatory procedures with regard to bidding at Treasury Bond Auctions, SWAP transactions and Reverse REPO transactions.
- Further, it had been specified that, the Dealers of the Bank of Ceylon could place a Bid on behalf of another Primary Dealer only after obtaining special approval from a specified Superior Officer.
- 24] In response to Questions asked by Mr. Nihal Fernando, PC, representing Perpetual Treasuries Ltd, Mr. Dharmapala said that in his view there was no market risk in placing Bids on behalf of Perpetual Treasuries Ltd.
- 25] In response to Mr. Nihal Fernando, PC, representing Perpetual Treasuries Ltd, Mr. Dharmapala said that, the Bank of Ceylon had made a profit of Rs. 36 million from its SWAP Transactions with Perpetual Treasuries Ltd.
- 26] In response to Mr. Nihal Fernando, PC, Mr. Dharmapala said, that as evident from the Audio Recording marked “**C133I**”, the Money Broker named Madhura had information, at 9.06am on 27<sup>th</sup> February 2015, that, the Money Market Rates would go up.

**Section 5.28** - **Mr. D.N.R. Siriwardena**

Mr. Siriwardena is the Registrar General of Companies. His Evidence-in-Chief was placed before this Commission of Inquiry by way of his Affidavit which was marked “**C148**”.

The witness was summoned before the Commission of Inquiry to produce documents filed, at the Department of the Registrar of Companies, by some Companies which operate as Primary Dealers and also documents filed, at the Department of the Registrar of Companies, by several Companies which are the Holding and/or Related Companies of Perpetual Treasuries Ltd.

These documents set out, *inter alia*, the dates of incorporation of these Companies, the objectives of these Companies, the Directors and Shareholders of these Companies, the Audited Accounts of these Companies for the Years 2014 to 2016 and other relevant information.

This witness produced the following Documents:



- 1] Documents setting out the aforesaid information, which have been filed by Entrust Securities PLC, marked “**RGC1**”.
- 2] Documents setting out the aforesaid information, which have been filed by Natwealth Securities Ltd, marked “**RGC2**”.
- 3] Documents setting out the aforesaid information, which have been filed by First Capital Treasuries Ltd, marked “**RGC3**”.
- 4] Documents setting out the aforesaid information, which have been filed by Wealth Trust Securities Ltd, marked “**RGC4**”.
- 5] Documents setting out the aforesaid information, which have been filed by Capital Alliance Ltd, marked “**RGC5**”.
- 6] Documents setting out the aforesaid information, which have been filed by NSB Fund Management Company Ltd, marked “**RGC6**”.
- 7] Documents setting out the aforesaid information, which have been filed by Perpetual Capital Holdings (Pvt) Ltd, marked “**RGC7**”.
- 8] Documents setting out the aforesaid information, which have been filed by Perpetual Treasuries Ltd, marked “**RGC8**”.
- 9] Documents setting out the aforesaid information, which have been filed by Perpetual Capital (Pvt) Ltd, marked “**RGC9**”.
- 10] Documents setting out the aforesaid information, which have been filed by Perpetual Equities (Pvt) Ltd, marked “**RGC10**”.
- 11] Documents setting out the aforesaid information, which have been filed by Perpetual Beverage Holdings (Pvt) Ltd, marked “**RGC11**”.
- 12] Documents setting out the aforesaid information, which have been filed by Perpetual Asset Management Ltd, marked “**RGC12**”.
- 13] Documents setting out the aforesaid information, which have been filed by Perpetual Travel, Retail and Airport Services (Pvt) Ltd, marked “**RGC13**”.
- 14] Documents setting out the aforesaid information, which have been filed by W.M. Mendis and Company (Pvt) Ltd, marked “**RGC14**”.
- 15] Documents setting out the aforesaid information, which have been filed by Walt and Row Associates (Pvt) Ltd, marked “**RGC15**”.

- 16] Documents setting out the aforesaid information, which have been filed by Pan Asia Banking Corporation PLC, marked “**RGC16**”.
- 17] Documents setting out the aforesaid information, which have been filed by DFCC Vardana Bank PLC, marked “**RGC17**”.
- 18] Documents setting out the aforesaid information, which have been filed by Deutsche Bank Ltd, marked “**RGC18**”.

**Section 5.29** - **Mr. H. M. Gamini Wijesinghe**

Mr. H.M. Gamini Wijesinghe is the Auditor General of Sri Lanka who was appointed to this position on 27<sup>th</sup> November 2015.

Mr. Wijesinghe holds a B. Sc in Public Administration from the University of Jayawardanapura and a Master Degree in Economics from the University of Kyung Hee, South Korea.

He is a Fellow Member of the Institute of Chartered Accountants of Sri Lanka.

The relevant evidence of this Witness is:

- 1] The Auditor General (AG) performs statutory functions in terms of Articles 153 and 154 of the Constitution of Sri Lanka in that he audits all departments of the Government and submits a Report to the Parliament within ten months after the end of a financial year.
- 2] Standing Orders Nos. 125 and 126 require the Auditor General to assist the Parliamentary Committees such as COPE and also to submit Reports required by them.
- 3] The COPE of the Eighth Parliament at its 24<sup>th</sup> Meeting made a request to the Auditor General to conduct an audit of the issuance of Treasury Bonds by the Central Bank of Sri Lanka and to submit a Report within two weeks. The witness stated that he was requested to consider the following in conducting the above audit.
  - (a) Whether the transactions give Value for Money for the Country.
  - (b) Did the Central Bank borrow money through Issuance of Treasury Bonds at least cost to the Government?

- (c) Did the Governor and the relevant officials act with due care, in good faith and due diligence.
  - (d) Were the relevant procedures and transactions transparent, and
  - (e) Is the Direct Placement method suitable for Sri Lanka.
- 4] AG has the power to inspect any documents of a public-sector institution, but due to issues of confidentiality, he had difficulties to collect information. However, he was able to review large volumes of original and certified documents relating to transactions concerned.
- 5] The Witness stated that in response to a letter sent by his Department, Superintendent Public Debt Department of the Central Bank of Sri Lanka by his letter dated 15th June 2016 had stated that he did not have information relating to transactions in the secondary market.
- 6] AG stated that his officers had several discussions with CBSL officials in an attempt to gather information, and as a result they were able to gain access to documents to a great extent.
- 7] The witness stated that they had obtained information relating to the sale of Treasury Bonds in the Primary Market, but information relating to the Secondary Market was required to conduct a successful audit.
- 8] Mr. Wijesinghe stated that they have considered the evidence brought before the two COPE Committees and the Pitapana Committee.
- 9] The Witness stated that they had specially focused on the issuance of Treasury Bonds on 27<sup>th</sup> February 2015 and on 29<sup>th</sup> March 2016 and the criteria for having selected the two issuances are:
- a. The amount accepted was much greater than the amount offered, i.e. offered One Billion and accepted about 10.0 Billion (900 % increase)
  - b. COPE had paid special attention to the issuances on 27<sup>th</sup> February.
  - c. Changes in Interest Rates and changes in weighted average yield rates.
- 10] The Witness stated that they have considered the Government fund requirements for the month of March 2015 and studied the PDD recommendation and related documents. Total funds required was Rs.172.0 Billion including Rs.89.683 Billion as re-issue.

- 11] AG stated that DDMC had recommended to raise Rs.1.0 Billion by Auction and the balance Rs.171.0 Billion by way of Direct Placements.
- 12] The Witness stated that the Governor has given approval to raise Rs.40.0 Billion through issue the of 20, 30 and 50 years bonds of Rs.10.0 Billion each on 02 March 2015, i.e. after the Auction on 27<sup>th</sup> February 2015.
- 13] AG stated they had investigated as to why a 30-year Bond was issued to settle recurrent expenditure and it was revealed that this measure was taken to settle interest by the Ministry of Finance.
- 14] The Witness stated that the PDD had not given plausible reasons for fixing the Coupon Rate of 12.5% *per annum* for the 30 Year Treasury Bond issued on 27<sup>th</sup> February 2015.
- 15] AG stated the Governments Fund requirement for 02<sup>nd</sup> March 2015 was Rs.13.5 Billion, and the PDD has decided to offer only Rs.1.0 Billion at the auction as it was their practice.
- 16] The monthly cash requirement including the interest payable is included in the Cash Flow statement submitted by the Treasury Operations Department.
- 17] The Witness was referred to a letter issued by the Hon. Minister Ravi Karunanayake, Minister of Finance [marked “**AM22**”] indicating an urgent need to raise Rs.75.0 Billion within one month for road construction works which had come to a standstill. Mr. Wijesinghe stated that neither the Central Bank nor the Ministry of Finance had notified the urgent need referred to above. This information was not submitted to COPE to the best of his knowledge.
- 18] The Witness was referred to the Bid Sheet and he stated that they had examined the amount of bids placed by the Primary Dealers within the allotted time and the bids placed by the PTL on its own and through other Primary Dealers in particular.
- 19] AG referred to the first Option Sheet proposed by the PDD which was not officially presented to the Tender Board, where the former had recommended to accept Rs.2.608 Billion at a yield rate of 11.9% (without tax 10.724%).
- 20] Mr. Wijesinghe stated that the Governor has unduly intervened at this stage and the second Option Sheet recommending Rs.10.058 Billion was prepared and submitted to the Tender Board for which approval was granted. This amounts to 905% increase in the accepted Bid Value over the offered value. In previous occasions in 2012 the accepted bid value was 407.5% over the offered value.

- 21] The Witness stated that the Governor has informed that Direct Placement was temporarily suspended on 27<sup>th</sup> February 2015 for which prior Monetary Board approval was not obtained.
- 22] AG stated that about 80 to 85% of the funds required for the Government were obtained by Direct Placements. In explaining the merits and demerits of these Direct Placements, AG stated that the CBSL was able to obtain funds at the least cost basis to the Government and had controlled Interest Rates by adopting Direct Placements, and admitted that they have not carried out an in-depth study due to issues of confidentiality.
- 23] The Witness stated that they have prepared several reports relating to Direct Placements as requested by the Ministry of Finance in that they have observed several deficiencies. The officers of the PDD have offered different rates in that differences in basis points concession relating to same Bond issues to different primary dealers have been offered. His view is that CBSL should have managed this issue and controlled the Interest Rates offered.
- 24] AG stated that EPF funds are mainly invested in Treasury Bonds under Direct Placements. In reply to a suggestion put to him that under auction system, EPF could earn better yields and his contention was that funds under EPF should be first protected and invested in risk free investments such as Treasury Bonds or Treasury Bills even if the Interest Rates are low. Under the auction system, EPF will be able to dominate and could offer higher Interest Rates in Auctions. This will create an increase in the cost of funds raised for the Government. The witness stated that the weighted average rates be computed based on auctions and that rates could be applied for Direct Placements.
- 25] The Witness has used the cutoff point formula in assessing the loss incurred through auctions held. He had computed the loss based on the amounts accepted below the cut off points of Rs. 1.308 Billion and Rs. 2.608 Billion. His contention was that the Rs.2.608 Billion initially recommended by the PDD was accepted, the balance amount around Rs.10.0 Billion after deducting Rs.3.0 Billion already collected by way of Direct Placement, amounting to Rs.7.0 Billion could have been raised by way of direct placements specially from captive sources.
- It is his contention that the amount raised beyond Rs.2.608 Billion recommended by the PDD at prices lower than cut off rate of Rs.102.21 had resulted in an avoidable direct loss of Rs.688.538,600/-.

*Auction held 29<sup>th</sup> March 2016*

- 26] AG explained that the amount accepted at this auction held on 29<sup>th</sup> March 2016 was Rs.77.7 Billion against the amount offered Rs.40 Billion.

The witness stated that he has therefore considered this transaction as unusual and said that CBSL could have accepted only Rs.40.0 Billion in this auction and the balance Rs.37.7 Billion could have been raised by Direct Placement, if it was in operation, to meet the Government requirement of Rs.105.0 Billion. Alternatively, CBSL could have raised the balance in another auction a few days later or resorted to raising funds by way of overdraft facility at State Banks, Introduction of taxes, printing money, borrowing from CBSL etc. The Commission observed that the suggestions made by the witness need evaluation of merits and demerits of alternate sources of financing at that time.

- 27] The witness was referred to the Audit Report marked “**C90D3**” and “**C150**” and total estimated avoidable loss computed based on Bids accepted beyond this limit of Rs.40.0 Billion under three series (ISINs) was Rs.784,898,755/-.

The Commission of Inquiry has noted that, this loss has been computed assuming that the balance required funds could have been raised by Direct Placements which were stopped in February 2015 or by alternate means referred to above.

- 28] As stated, the EPF has purchased Treasury Bonds in the Secondary Market at higher prices instead of engaging in the Primary Market, despite having excess funds. He stated that the daily cash flow of EPF was around Rs.400 Million (cheque deposits) and Rs.15.0 Billion was available monthly for investment purposes. The cash inflow on 02<sup>nd</sup> March 2016 was Rs.178 Million.

It was also stated that complex decisions regarding investments of funds were taken by the Monetary Board of CBSL.

- 29] The Witness further stated that several Treasury Bonds of (Different ISIN) purchased by the PTL had been sold from one to another in the market and had been ultimately bought by the EPF at low prices.

The profits earned and the assets and liabilities of PTL for the years 2014, 2015 and for the period April 2016 to August 2016 as per the Reports submitted to the CBSL was revealed. AG has pointed to the system weakness in his Audit Report.

- 30] The Witness stated that the Minister of Finance by his letter dated 19<sup>th</sup> August 2016, in terms of the Finance Act No. 49 of 1971 has requested him to submit Reports relating to 10 questions on issuance of Treasury Bonds during the years 2008 to 2015. He has compiled eight Reports (marked “**C154A**” to



“**C154H**”) submitted to the Minister of Finance with copies to the Parliament. These are special Reports compiled based on information obtained from the CBSL and differs from the audit Reports.

- 31] AG pointed out that he was not provided with the information relating to the prices of Bonds in the Secondary Market and the CBSL had stated that they were not available with them.
- 32] Mr. Nihal Fernando, P.C. appearing on behalf of Perpetual Treasuries Ltd questioned the witness as to his qualification and experience in accounting, auditing, his knowledge on Treasury Bonds, their valuations accounting, issuance at premium / discount and the theory and practice on calculation of profit or loss on Treasury Bond sales.
- 33] The Witness was referred to AG’s Report Volume 10 Para 4.2 where it has been mentioned that *“the issue of Bonds at a yield rate, above the coupon rate, that is discount rate, the Government incurs a financial loss”*. Mr. Fernando pointed out to the witness the CBSL observations on the above.

*“Issuance of bonds at par, premium or discount is a function of number of macro-economic considerations.*

*Whether it is being issued at par, premium or discount could not be incurred as a loss or profit to the issuer as the actual debt servicing cost is determined by the yield to the maturity”.*

The witness’ position was that the above theory will not apply to the case in question. He was not giving direct replies to several questions put to him on this matter and stated that the market is not mature, few dealers could get together and manipulate the price. Confidential inside information had been used by certain participants to manipulate the system and in this context whether issuances have been carried out with the least cost to the Government was questionable.

- 34] The witness was referred to the Document marked “**C150**” and questioned as to his opinion on the rejection of the auctions held on 10<sup>th</sup> and 24<sup>th</sup> March 2016. The witness stated that had the bids been accepted at these auctions, there would not have been a large amount at the auction held on 29<sup>th</sup> March 2016.

The witness was referred to the evidence of Mr. T.H.B. Sarathchandra, Superintendent of Public Debt, where the Tender Board had rejected the recommendations of the PDD at these auctions held on 10<sup>th</sup> March 2016 and 24<sup>th</sup> March 2016. Mr. Sarathchandra’s position was that the Tender Board consists of people with more expertise and ability than those in the PDD.

35] In reply to questions raised by the Counsel Mr. Nihal Fernando, P.C. the witness stated that at the auction held on 29<sup>th</sup> March 2016, bids worth Rs.142.4 Billion was received and bids worth Rs.77.72 Billion was accepted. Out of this excess of Rs.37.7 Billion accepted over Rs.40.0 Billion offered, 60% was secured by PTL. The witness stated that the focus of his Report was to identify gaps in the discounts and Interest Rates and the concept of least cost to the Government. He had also looked into the effects as a result of the discontinuation of the Direct Placements. The government would not have incurred losses of this nature, if the Direct Placement was continued.

36] Mr. Chanaka de Silva Counsel appearing on behalf of Mr. Arjun Mahendran questioned the witness as to the request received from the COPE and the reasons for selecting 27<sup>th</sup> February 2015 auctions, and 29<sup>th</sup> March 2016 for his detail audit. Mr. Wijesinghe stated that as the Auditor General, he assisted the COPE in their deliberations and in the course of their sittings in May 2016 a request has been made to him to carry out an audit of the Treasury Bond transactions held in 2015 and in 2016. This request was made verbally and as Auditor General he had decided to carry out a detailed audit of the Treasury Bond sales on 27<sup>th</sup> February 2015 and 29<sup>th</sup> March 2016. The criteria for selecting the above sales were large differences in the amount offered at auctions and the actual amounts accepted.

The witness denied allegations made by the Counsel that he had deliberately chosen a very specific period concerning one Governor and in a biased manner when the actual mandate was much broader to Report on past and present auctions. AG further stated that as per discussions in the COPE, the basis and parameters of the Report had been decided by him. He confirms that there was no written instruction given to him to carry out the investigations and stated that the COPE had not pointed out any defects or comments on the manner chosen by him when the Report was finally presented to the COPE.

37] The Witness was referred to the Reports compiled by him upon the request of the Minister of Finance marked “**S17X**” and “**C154A**”, the nature of the Direct Placements from 2008 to 2015 and the defects latent in the system analyzed in detail.

AG pointed out that he was unable to carry out audits of these Direct Placements over the years 2008 to 2015 amounting to Rs.4.7 Trillion done due to issues of confidentiality, sensitive information and stated that Mr. Samarasiri, who was a Deputy Governor had blocked the release of information. The above Reports submitted to the Minister of Finance were prepared based on information submitted by the Bank and not subject to Audit.

The witness explained the normal procedure adopted in auditing i.e. collecting information and documents, getting written clarifications / answers from relevant officials, conducting audits, preparation of draft Reports, send them to the Institutions concerned for their observations, and then finalization of Report after considering all observations. This detail procedure was not adopted in the preparations of Reports submitted to the Minister of Finance in terms of Section 43 (2) of the Monetary Law Act No.58 of 1949.

- 38] The Witness in his response to the questions raised in the summary Report on the issuance of Treasury Bonds under Direct Placement during the years 2008 to 2015 contained in the Report marked “S17” submitted to the Minister of Finance, stated that 57% of the Bonds issued during the period of 09 years had been at yield rates less than the market rates or equal to the market rates and 43% above the market rates. The evidence contained in the above Reports relating to issuances of Bonds to EPF in 2008 within 75 to 433 basis points range less than the prevailing market rates have caused a loss of Rs.3.872 Billion.

The Witness admitted they have not studied whether the decision to stop Direct Placement was a proper or justified decision and had not made any recommendation as to how the present system be improved.

- 39] The witness was referred to the Section in his Report to the COPE concerning the computation of losses using a cutoff point. The witness contended that the amount accepted finally at Auctions was greater than what was placed on offer.

He stated that the decision to accept an amount that exceeds the amount offered is one that is taken by the Tender Board based on the least cost principle and the cut-off point is arrived at, at this point.

The computation of loss was carried out on the assumption that the Direct Placement can be used at the cut off rate.

- 40] In response to questions raised by Mr. Priyantha Nawana Additional Solicitor General, Mr. Wijesinghe stated that:

- a. It was at the deliberations of the COPE that, he was informed to consider the auctions held on 27<sup>th</sup> February and 29<sup>th</sup> March 2016.
- b. Regarding the applicability of Sri Lanka Accounting Standards (PPL 10, 11 and 12), he stated that the CBSL does not fall within the legal parameters and they attempt to confirm these standards due to their international acceptance. The Witness also explained the Public-Sector Accounting Standards which are applicable to the Ministry of Finance.

They are not legally bound to adopt by an Act, and therefore low level of compliance.

- c. Referring to alternate sources of financing, he said that the Treasury Operation Department of the Ministry of Finance and the PDD are in constant contact with each other concerning matters relevant to raising of funds.

**Section 5.30**

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**Mr. M. D. Schaffter**

Mr. Dinesh Schaffter is a Director of the company named "First Capital Treasuries PLC". It is a Primary Dealer company registered with the Central Bank. It has been engaging in the trading of Treasury Bonds for the last 10 years. Mr. Schaffter had been a Director of the company for the past ten years and has been the Managing Director, since 2015.

The relevant evidence of this witness is:

- 1] Mr. Schaffter stated that he had had no knowledge, of any unusual fund requirement for the Government or of any price sensitive information, before the Treasury Bond Auction on 27<sup>th</sup> February 2015. He stated that the money requirement of the Government that he was aware of, is the amount that was advertised by the CBSL before the said Auction.
- 2] According to his evidence, First Capital Treasuries PLC had also placed bids through its Chief Dealer Ms. Suhini Himalika Fernando at the Auction held on 27<sup>th</sup> February 2015.
- 3] Mr. Schaffter stated that he became aware of two unusual events that occurred at this Bond Auction. One is that the amount of bids accepted at this particular Auction was 10 times more than the amount offered. The other is that the Yield Rate had gone up over 300 basis points than what was prevailing in the market at the time.
- 4] He said that these events were unprecedented and were shocking to him and therefore he had brought this to the notice of Dr. Harsha de Silva who was a Deputy Minister at the time. It was done so by him via email, and the first email was sent on 03<sup>rd</sup> March 2015, while the second email was sent on 06<sup>th</sup> March 2015.

**Section 5.31**

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**Mrs. D. Suhini Himalika Fernando**

Mrs. Suhini Fernando was the Assistant General Manager and the Chief Dealer of First Capital Treasuries PLC. She had been the Chief Dealer from 2014 to 05<sup>th</sup> March 2016. First Capital Treasuries PLC is a Standalone Primary Dealer licensed by the Central Bank of Sri Lanka.

The relevant evidence of this witness:

- 1] Mrs. Fernando stated that she placed a bid to the value of Rs. 100 million at the rate of 10.10% on 27<sup>th</sup> February 2015. She then said that the aforesaid bid was placed in order to cover the minimum bidding requirement of the Primary Dealers, in accordance with the rules of the Central Bank. She stated that the aforesaid bid had been placed in that manner, without any hope of being accepted, as her company was not interested in obtaining 30-year Treasury Bonds.
- 2] The witness also said that the market rates that prevailed, immediately before the CBSL Auction held on 27<sup>th</sup> February 2015 for Treasury Bonds of an equal Tenor ranged from 9.5% to 9.75%. She also said that she had no knowledge of any unusual fund requirement of the Government and that she was not privy to any price sensitive information prior to or during the Bond Auction of 27<sup>th</sup> February 2015. She clearly said that she was not aware that the CBSL was going to accept a larger volume of Treasury Bonds other than what was advertised for in respect of the Auction on 27<sup>th</sup> February 2015.
- 3] Mrs. Fernando also said that she has observed that Perpetual Treasuries Ltd made a profit of approximately Rs. 5 Billion for the Financial year ending 31<sup>st</sup> March 2016, while the profits of her company came down to Rs. 11 million as at 31<sup>st</sup> March 2016. She then said that the reason for this fall in profits of First Capital Treasuries PLC was the increase in market Interest Rates.

**Section 5.32**

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**Mr. S. P. Sedara**

Mr. S.P. Sedara is the Assistant Director of the Department of Supervision of Non-Bank Financial Institutions (Primary Dealer Supervision Division) of the Central Bank of Sri Lanka.

His Evidence-in-Chief was presented by way of Affidavit affirmed to by him on 16<sup>th</sup> October 2017, which was marked “**C342**”.

The relevant evidence of this witness is:

- 1] In the course of an Onsite Examination of Perpetual Treasuries Ltd in October 2016, Perpetual Treasuries Ltd was requested to provide, among other Data, details relating to all Outright Transactions in Treasury Bonds by Perpetual Treasuries Ltd during the period from 01<sup>st</sup> April 2014 to 30<sup>th</sup> September 2016.

Mr. Kasun Palisena, Chief Executive Officer of Perpetual Treasuries Ltd had furnished this information by his email dated 18<sup>th</sup> October 2016, which has been earlier marked “**C248**” when Mr. Palisena gave evidence,

- 2] Mr. Sedara and his staff had used the information contained in this email to obtain the Total Net Cash Inflow received by Perpetual Treasuries Ltd from Transactions upon Treasury Bonds bearing the following ISINs, issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016.

- (a) LKB03045C013
- (b) LKB01528I017
- (c) LKB02541A016
- (d) LKB01530E152
- (e) LKB01226F014
- (f) LKB01025C157
- (g) LKB02035C155

- 3] Mr. Sedara said that, the computation of these Net Cash Inflow has been limited to Transactions upon Treasury Bonds bearing the aforesaid ISINs up to 30<sup>th</sup> September 2016 or, if earlier, the last Trading Date before a Re-Issue of a Treasury Bonds bearing the one of aforesaid ISINs after it was first issued Treasury Bonds during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016.

- 4] Mr. Sedara said that, for the purpose of this computation, the following procedure has been adopted:

- (a) All Transactions where the entire Face Value has been reversed within a period of less than 30 days between the same Parties, have been excluded;
- (b) All Transactions identified as “Profit Transfers” have been excluded;
- (c) All “Outright Transactions” entries which are not found in the Lanka Secure System have been excluded. This has been verified by using the document marked “**C172**”.



- (d) The “Last In First Out’ basis has been used when computing the “Cost of Sales” for all Sales of Treasury Bonds by Perpetual Treasuries Ltd.
- 5] Mr. Sedara said that, all Transaction Prices have been taken from the Lanka Secure System [i.e: Settlement Amounts] except that:
- (a) With regard to the DVF/RVF Transactions, all Prices have been taken from the “Outrights Report” marked “**C248**”;
- (b) Where there is a discrepancy between the Settlement Amount in the Lanka Secure System and the Settlement Amount amount stated in “**C248**”, the Settlement Amount stated in “**C248**” has been used.
- 6] The Net Cash Inflow received by Perpetual Treasuries Ltd from Sales of Treasury Bonds to all Parties and Sales of Treasury Bonds to Government Entities [both directly and through Intermediaries] have been calculated separately.
- 7] The Computations prepared by Mr. Sedara together with Mr. P.W. Wickumsiri, Assistant Director of the Department of Domestic Operations of the CBSL and their staff, setting out the Net Cash Inflows received by Perpetual Treasuries Ltd from Transaction upon Treasury Bonds bearing the aforesaid 7 ISINs were annexed to the Affidavit marked “F”, “G”, “H”, “I”, “J”, “K” and “L”. Mr. Sedara said that he has checked and verified the accuracy of the data and computations stated in these document,
- 8] Mr. Sedara said that, the document marked “**C172**” had been used as the base document when preparing these computations.

**Section 5.33** - **Mr. H.S. Wickramasuriya**

Mr. Wickramasuriya is one of the Senior Assistant Directors of the Central Bank of Sri Lanka. He entered the Faculty of Science of the University of Colombo and read for a degree in Computer Studies and obtained his degree in the year 2000. The witness joined Central Bank of Sri Lanka as an Assistant Director in the Information Technology Department. Thereafter, on 21<sup>st</sup> February 2011, he was promoted as a Senior Assistant Director. He went to the United States of America to read for his Masters in 2012. Upon his return he had continued to function in the same Grade at the IT Department of the Central Bank. The main purpose of calling him as a witness is to show that he had invested in Government Securities, while working at the Central

Bank. Accordingly, his evidence has very little value as far as the issuance of Treasury Bonds during the mandated period is concerned.

The relevant evidence of this witness:

- 1] Mr. Wickramasuriya stated that he did not invest in Government Securities prior to 2016. He had invested in Treasury Bonds or Treasury Bills for the first time on 05<sup>th</sup> May 2016. He further said that he made an attempt to buy the Bonds that were Auctioned on 27<sup>th</sup> February 2015 from the Secondary Market through the Bank of Ceylon upon seeing the Notice of the Auction published on the Central Bank website. In order to purchase a few of those Treasury Bonds he had gone to the Primary Dealer Unit of the Bank of Ceylon. He said that when he was at the Dealing Unit there, he met the Chief Dealer of the Bank of Ceylon Mr. Dharmapala and had inquired from him about the Interest Rates. As the rates were not attractive, he has not placed any application to purchase treasury Bonds that were to be auctioned on 27<sup>th</sup> February 2015.
- 2] Basically, his evidence was that he was interested only in the Interest Rates when he visited the Bank of Ceylon Dealing Room. According to the witness, he did not do any particular research before expecting to buy Bonds. He was seeking an opportunity to invest using the money saved in his bank account. It was his understanding that 11% would be the average Interest Rate for a reasonable investment. The witness also said that he cannot remember if he called or contacted anyone at the Bank of Ceylon after the Auction that was held on the 27<sup>th</sup>. Mr. Wickramasuriya was shown the COPE Report that was marked in evidence. At Page 1085, of Volume 11 of that COPE Report, it is found that Mr. Dharmapala who was the Chief Dealer of the Bank of Ceylon has testified that he had called the witness regarding this Bond. The witness stated that he cannot recall such a conversation having been taken place.
- 3] The witness stated that he did not buy any Treasury Bonds at the Auctions held on 29<sup>th</sup> and 31<sup>st</sup> March 2016, however he stated that he purchased Bonds on 05<sup>th</sup> May 2016 and the face value of those was Rs. One Million Three Hundred and Eighty-Three Thousand and Six hundred. (Rs. 1,383,600) He had purchased the Bond through the Bank of Ceylon, in May. The witness stated that certain officers in the Public Debt Department used to invest in Treasury Bonds. The witness has been having a Government Security account with the Bank of Ceylon since 2005.
- 4] Upon questioning the witness said that he is not aware of any requirement whereby officers are expected to Report to the Central Bank concerning their dealings in Government Securities. The witness stated that he does not have direct dealings with Deputy Governors and said that he mostly deals with his Head of Department, Mr. Vasantha Alwis. He further said that he cannot recall the Deputy Governor who was in charge of IT at that time.

Ms. L.S. Fernando was functioning as a Senior Assistant Director of the Public Debt Department at all material times relating to the mandated period of the Commission of Inquiry. She had joined the Central Bank of Sri Lanka on 15<sup>th</sup> June 2010 after having obtained a Second Class Upper Division Degree from the University of Colombo and she is a CIMA Pass Finalist as well.

The relevant evidence of this witness:

- 1] Ms. Fernando in her evidence stated that she was involved in communicating with the Primary Dealers when Auctions and Direct Placements were taking place to issue Treasury Bonds. She was doing the operational aspects when conducting Auctions and Direct Placements. According to the evidence, her duties included calling the Primary dealers from time to time to give them market updates and to inform them the market behavior i.e. matters that take place in the market. They do market surveys as well, to know the market appetite and then to find out the pulse of the market. She said that Primary Dealers call her and inquire after such information. The witness also said that when direct placements were made, Central Bank gave the rates and the tenor of the Bonds to the Primary Dealers.
- 2] The witness has explained her role in the Front Office. Her role when it came to auctions is to prepare the press advertisements for the auctions and to communicate with the market on the tenor of the Treasury Bond and other matters that the Primary Dealers wanted to know and to provide them with operational assistance in conducting auctions. Before the auction begins; the Front Office collects the market rates, closing rates are informed to the management and updates them on the market behavior pattern prior to the auction. Witness said that she was aware that prior to 27<sup>th</sup> February 2015, there were Treasury Bond issuances through Direct Placements as well as by way of Auctions.
- 3] Witness stated that the officials in the Public Debt Department are given the discretion to decide on the volume base incentives by looking at the document marked "C46A". Upon showing the document marked "C 46 B", witness said that it is an example of a Rate Sheet approved by the Deputy Governor and the tenors of the Treasury Bonds.
- 4] Whilst giving evidence, Ms. Fernando was directed to listen to several telephone conversations she had with Mr. Dharmapala who was the then Chief Dealer of the People's Bank. Contents of those recordings were marked as

“C133D”, “C133F”, “C133G” and “C133H”. Voice Recording marked “C133D” is a telephone conversation made on 27<sup>th</sup> February 2015 at 10:10 am. This conversation took place while the auction was going on. Voice recording “C133F” was a conversation between them made at 10:39 am. In this conversation, the Chief Dealer expressed surprise regarding the rate [10.25] at which the customers were proposing to bid. “C133G” was a telephone conversation between the witness and the Bank of Ceylon Dealer, which took place at 10:45 a.m. In that conversation, Mr. Dharmapala has called the witness and requested her to extend the closing time of the auction. The reason he gave for this request was that the Bank of Ceylon had received requests to place more bids. Document marked “C133H” is a conversation between the witness and the Bank of Ceylon Chief Dealer that took place at 2:43 pm on 27<sup>th</sup> February 2015. The transcript of the conversation had been reproduced in COPE Report as well. [Volume 11. Pages 1081 – 1083] In that conversation witness says, “Governor walked in”. The witness also had said, “Man walked into the Department and said ‘no’ what rubbish you are doing, increase it and give it at this level”, the “man” referred to there is the Governor Mr. Mahendran.

- 5] Witness stated that, she was at the Front Office when the Governor walked in to the Public Debt Department. Then the witness had gone near him to handover the option sheet for the officials to discuss at a time they were in conversation outside the Superintendent’s office. The Head of her Division, Mrs. Srimalee Fernando had told the witness to bring the said option sheet because they wanted to show the Governor the recommendations of the Public Debt Department. The witness also said that Mr. Mahendran came twice to the Public Debt Department on 27<sup>th</sup> February 2015. The witness stated that it was the first time where she witnessed a Governor coming in to this Department. The witness was surprised and said; “No Governor has ever walked in like that Sir.” The Governor went into the Superintendent’s office with two Deputy Governors, Dr. Weerasinghe and Mr. Silva when the Superintendent was inside the office.
- 6] The witness also said that there had been a series of transfers of senior officers two or three weeks prior to February 2015. Ms. Fernando stated that she was informed by the Superintendent that a request had been made to put Mr. Saman Kumara to the Front Office and for her to join the Middle Office.

**Section 5.35** - **Mr. B.M.F. Indika Mendis**

Mr. Indika Mendis was the Head of Treasury of Capital Alliance Limited from the year 2014 to October 2015. Capital Alliance Limited is a Standalone Primary Dealer registered with the Central Bank of Sri Lanka. Mr. Mendis had been involved in placing

bids at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 on behalf of Capital Alliance Limited.

The relevant evidence of this witness is:

- 1] Mr. Mendis said that he had no knowledge of any unusual funding requirement of the Government, prior to or during the said auction on 27<sup>th</sup> February 2015. He also said that he was not aware that the Central Bank was going to accept a larger volume than what was advertised in connection with the said Auction.
- 2] The witness stated that he placed a bid to the value of Rs. 100 million at the rate of 12.5%, which was a rate that was higher than the prevailing market rate. He then said that such a bid was placed at that rate, in order to maintain the minimum bidding requirement prescribed by the Central Bank. However, he had subsequently come to know that the Central Bank had accepted the bid placed by him on behalf of Capital Alliance Limited, though he considered it to be a dummy bid. He further said that he came to know that the Central Bank has accepted Rs. 10 billion worth of Treasury Bonds at the Auction on 27<sup>th</sup> February 2015, which was an amount that was ten times more than what was originally offered.

**Section 5.36 - Mr. H. N. K. B. Meegolla**

Mr. H.N.K.B. Meegolla was the Assistant General Manager of Nat Wealth Securities Ltd, and at all material times connected to the period under review by this Commission of Inquiry. He stated that Nat Wealth Securities Ltd is a licensed standalone Primary Dealer which is fully owned by the Mahapola Higher Education Scholarship Trust Fund.

The relevant evidence of this witness is:

- 1] Mr. Meegolla in his evidence stated that he was not privy to any price sensitive information prior to or during the Treasury Bond Auctions held on 27<sup>th</sup> February 2015, 29<sup>th</sup> March 2016 or 31<sup>st</sup> March 2016. He also went on to state that he was not aware that the Central Bank was going to accept a much larger volume of Treasury Bonds, than what was advertised by the CBSL in respect of the said Treasury Bond Auctions. Mr. Meegolla emphasized that he was unaware of any urgent funding requirement of the Government on or before 27<sup>th</sup> February 2015.
- 2] Speaking on the profit making of Nat Wealth Securities Ltd, the witness said that though his company made a profit of Rs. 514 million during the Financial Year that ended on 31<sup>st</sup> March 2015, the Company had incurred a loss of Rs. 200 million, by 31<sup>st</sup> March 2016. Mr. Meegolla then said that the said losses incurred by the company were due to the sudden rise of Yield Rates by about

300 to 350 basis points than what prevailed in the market after the Treasury Bond Auction held on 27<sup>th</sup> February 2015.

- 3] Mr. Meegolla has also stated that Nat Wealth Securities Ltd placed two bids at the 27<sup>th</sup> February 2015 auction, for Rs. 50 million each, at Interest Rates of 11% and 11.25% respectively. He then said that both bids placed, were accepted by the Central Bank since all the bids up to the rate of 12.5% had been accepted.
- 4] According to the witness, Net Wealth Securities Ltd had placed bids at the Treasury Bonds Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016 as well, at Yield Rates ranging from 13.85% to 20%. Some of these bids were accepted at the rate of 13.85% and 13.9%.
- 5] Mr. Meegolla has also stated that he had reliable information that the EPF would limit its participation at the Auction held on 27<sup>th</sup> February 2015.

**Section 5.37** - **Mr. R.A.B. Dias**

Mr. Dias is the Deputy General Manager- Treasury of the Pan Asia Banking Corporation PLC.

The relevant evidence of this witness is:

- 1] The Pan Asia Banking Corporation PLC ["PABC"] has a License to operate as a Primary Dealer.
- 2] Mr. Dias said that, the letter dated 30<sup>th</sup> March 2017 marked "**C186**" has been signed by him. This letter has been written by PABC to CBSL in response to a request made by the CBSL to PABC to furnish information regarding several Transactions which PABC had with Perpetual Treasuries Ltd, upon Treasury Bonds.
- 3] Mr. Dias gave the following evidence with regard to the several Transactions set out in letter marked "**C186**":  
Transactions in respect of Treasury Bonds bearing ISIN LKB01530E152 at and after the Treasury Bond Auction held on 30<sup>th</sup> October 2015
  - (i) Perpetual Treasuries Ltd had requested PABC to place the following Bids to purchase Treasury Bonds bearing ISIN LKB01530E152 [maturing on 15<sup>th</sup> May 2030] at the Treasury Bond Primary Auction held on 30<sup>th</sup> October 2015, which had a Settlement Date of 02<sup>nd</sup> November 2015:



- (a) Rs. 1 billion at a Yield Rate of 10.3000
- (b) Rs. 1 billion at a Yield Rate of 10.3500
- (c) Rs. 1 billion at a Yield Rate of 10.4000

Perpetual Treasuries Ltd also requested PABC to sell the aforesaid Treasury Bonds immediately - *ie:* on the Settlement Date itself - to Perpetual Treasuries Ltd at the following Yield Rates [PABC keeping a Profit Margin of 0.0050 on the Yield Rates]:

- (a) Rs. 1 billion at a Yield Rate of 10.2950
- (b) Rs. 1 billion at a Yield Rate of 10.3450
- (c) Rs. 1 billion at a Yield Rate of 10.3950

PABC agreed to these requests and these Transactions were carried out.

- (ii) Perpetual Treasuries Ltd had then informed PABC that, the EPF wished to buy the aforesaid Treasury Bonds [which Perpetual Treasuries Ltd had purchased from PABC on the same day], but that Perpetual Treasuries Ltd was unable to sell these Treasury Bonds directly to the EPF. Mr. Dias said that he thought that this was perhaps due to “Counter Party Limit Constraints”.

In any event, Perpetual Treasuries Ltd had requested PABC to buy these Treasury Bonds from Perpetual Treasuries Ltd and then sell the same Treasury Bonds to the EPF, on the same day, at the following Yield Rates [PABC after keeping a Profit Margin of 0.0050 on the Yield Rates].

PABC had agreed and had purchased the following Treasury Bonds bearing ISIN LKB01530E152 [maturing on 15<sup>th</sup> May 2030] from Perpetual Treasuries Ltd at the following Yield Rates, with the same Settlement Date of 02<sup>nd</sup> November 2015.

- (a) Rs. 1 billion at a Yield Rate of 10.3050
- (b) Rs. 1 billion at a Yield Rate of 10.3050
- (c) Rs. 1 billion at a Yield Rate of 10.3050
- (d) Rs. 0.55 billion at a Yield Rate of 10.3050

Perpetual Treasuries Ltd had then sold these same Treasury Bonds to the EPF, on the same day, at the following Yield Rates [PABC keeping a Profit Margin of 0.0050 on the Yield Rates]:

- (a) Rs. 1 billion at a Yield Rate of 10.3000
- (b) Rs. 1 billion at a Yield Rate of 10.3000

- (c) Rs. 1 billion at a Yield Rate of 10.3000
- (d) Rs. 0.55 billion at a Yield Rate of 10.3000

- (iii) Perpetual Treasuries Ltd had then informed PABC that, the EPF wished to sell these Treasury Bonds back to Perpetual Treasuries Ltd but that Perpetual Treasuries Ltd was unable to buy these from the EPF, due to Counter Party Limits.

Perpetual Treasuries Ltd had requested PABC to buy the following Treasury Bonds bearing ISIN LKB01530E152 [maturing on 15<sup>th</sup> May 2030] from the EPF at the following Yield Rates and then sell the same Treasury Bonds to Perpetual Treasuries Ltd [PABC keeping a Profit Margin of 0.0050 on the Yield Rates].

PABC had agreed to do so.

Accordingly, PABC had purchased the following Treasury Bonds bearing ISIN LKB01530E152 [maturing on 15<sup>th</sup> May 2030] from the EPF at the following Yield Rates, with a Settlement Date of 05<sup>th</sup> November 2015:

- (a) Rs. 1 billion at a Yield Rate of 10.2800
- (b) Rs. 1 billion at a Yield Rate of 10.2800
- (c) Rs. 1 billion at a Yield Rate of 10.2800
- (d) Rs. 0.55 billion at a Yield Rate of 10.2800

PABC had then sold these Treasury Bonds to Perpetual Treasuries Ltd on the same Settlement Date - *ie*: on 05<sup>th</sup> November 2015 - at the following Yield Rates [PABC keeping a Profit Margin of 0.0050 on the Yield Rates]:

- (a) Rs. 1 billion at a Yield Rate of 10.2750
- (b) Rs. 1 billion at a Yield Rate of 10.2750
- (e) Rs. 1 billion at a Yield Rate of 10.2750
- (f) Rs. 0.55 billion at a Yield Rate of 10.2750

- (iv) Perpetual Treasuries Ltd had then again informed PABC that, the EPF wished to buy the aforesaid Treasury Bonds bearing ISIN LKB01530E152 [maturing on 15<sup>th</sup> May 2030] from Perpetual Treasuries Ltd but that Perpetual Treasuries Ltd was unable to sell these directly to the EPF.

Perpetual Treasuries Ltd had requested PABC to buy these Treasury Bonds from Perpetual Treasuries Ltd and then sell the

same Treasury Bonds to the EPF, on the same day, at the following Yield Rates, [PABC keeping a Profit Margin of 0.0050 on the Yield Rates].

PABC had agreed.

Accordingly, PABC had purchased Treasury Bonds bearing ISIN LKB01530E152 [maturing on 15<sup>th</sup> May 2030] from Perpetual Treasuries Ltd at the following Yield Rates and with a Settlement Date of 06<sup>th</sup> November 2015:

- (a) Rs. 1 billion at a Yield Rate of 9.2550
- (b) Rs. 1 billion at a Yield Rate of 9.2550
- (c) Rs. 0.5 billion at a Yield Rate of 9.2550

PABC had then sold these same Treasury Bonds to the EPF, on the same day, at the following Yield Rates [PABC keeping a Profit Margin of 0.0050]:

- a. Rs. 1 billion at a Yield Rate of 9.2500
- b. Rs. 1 billion at a Yield Rate of 9.2500
- c. Rs. 0.5 billion at a Yield Rate of 9.2500

- (v) Perpetual Treasuries Ltd had later, again informed PABC that, the EPF wished to buy the aforesaid Treasury Bonds bearing ISIN LKB01530E152 [maturing on 15<sup>th</sup> May 2030] from Perpetual Treasuries Ltd on a Settlement Date of 17<sup>th</sup> November 2015, but that Perpetual Treasuries Ltd was unable to sell these directly to the EPF.

Perpetual Treasuries Ltd had requested PABC to buy these Treasury Bonds from Perpetual Treasuries Ltd and then sell the same Treasury Bonds to the EPF, on the same day, at the following Yield Rates, [PABC keeping a Profit Margin of 0.0050 on the Yield Rates].

PABC had agreed.

Accordingly, PABC had purchased Treasury Bonds bearing ISIN LKB01530E152 [maturing on 15<sup>th</sup> May 2030] from Perpetual Treasuries Ltd at the following Yield Rates and with a Settlement Date of 17<sup>th</sup> November 2015:

- (a) Rs. 1 billion at a Yield Rate of 9.3350
- (b) Rs. 0.5 billion at a Yield Rate of 9.3350

PABC had then sold these same Treasury Bonds to the EPF, on the same day, at the following Yield Rates [PABC keeping a Profit Margin of 0.0050]:

(a) Rs. 1.5 billion at a Yield Rate of 9.3300

Transactions in respect of Treasury Bonds bearing ISIN LKB02035C155 at and after the Treasury Bond Auction held on 26<sup>th</sup> October 2015

- (i) Perpetual Treasuries Ltd had informed PABC that, the EPF wished to buy the aforesaid Treasury Bonds bearing ISIN LKB02035C155 from Perpetual Treasuries Ltd but that Perpetual Treasuries Ltd was unable to sell these Treasury Bonds directly to the EPF. Mr. Dias said that he thought that this was due to Counter Party Limit Constraints.

In any event, Perpetual Treasuries Ltd had requested PABC to buy these Treasury Bonds from Perpetual Treasuries Ltd and then sell the same Treasury Bonds to the EPF, on the same day, at the following Yield Rate [PABC keeping a Profit Margin of 0.0050 on the Yield Rates]

PABC had agreed and purchased the following Treasury Bonds bearing ISIN LKB02035C155 from Perpetual Treasuries Ltd at the following Yield Rate, with a Settlement Date of 02<sup>nd</sup> November 2015:

(a) Rs.0.6 billion million at a Yield Rate of 11.0050

PABC had then sold these Treasury Bonds to the EPF at the following Yield Rate [keeping a Profit Margin of 0.0050 on the Yield Rate] with the same Settlement Date of 17<sup>th</sup> November 2015 [PABC keeping a Profit Margin of 0.0050 on the Yield Rate]:

(a) Rs. 0.6 billion at a Yield Rate of 11.0000

- (ii) Perpetual Treasuries Ltd had then informed PABC that, the EPF wished to sell these Treasury Bonds back to Perpetual Treasuries Ltd but that Perpetual Treasuries Ltd was unable to buy these Treasury Bonds from the EPF, due to Counter Party Limits.

Perpetual Treasuries Ltd had requested PABC to buy these Treasury Bonds from the EPF and then sell them to Perpetual Treasuries Ltd at the following Yield Rates [PABC keeping a Profit Margin of 0.0050 on the Yield Rate.

PABC had agreed and carried out the following transactions. PABC had purchased these Treasury Bonds bearing ISIN LKB02035C155 from the EPF at the following Yield Rate and a Settlement Date of 05<sup>th</sup> November 2015:

(a) Rs.0.6 billion at a Yield Rate of 10.9800

PABC had then sold these Treasury Bonds to Perpetual Treasuries Ltd at the following Yield Rate, on the same day, [PABC keeping a Profit Margin of 0.0050 on the Yield Rate]:

(a) Rs. 0.6 million at a Yield Rate of 10.9750

- (iii) Perpetual Treasuries Ltd had informed PABC that, the EPF wished to buy more Treasury Bonds bearing ISIN LKB02035C155 from Perpetual Treasuries Ltd but that Perpetual Treasuries Ltd was unable to sell these directly to the EPF, due to Counter Party Limits.

Perpetual Treasuries Ltd had requested PABC to buy these Treasury Bonds from Perpetual Treasuries Ltd and then sell the same Treasury Bonds to the EPF at the following Yield Rates [PABC keeping a Profit Margin of 0.0050 on the Yield Rates]. PABC had agreed.

Accordingly, PABC had purchased the following Treasury Bonds bearing ISIN LKB02035C155 from Perpetual Treasuries Ltd at the following Yield Rates, with a Settlement Date of 05<sup>th</sup> November 2015:

(a) Rs. 0.5 billion at a Yield Rate of 9.8050

(b) Rs. 0.5 billion at a Yield Rate of 9.8050

PABC had then sold these Treasury Bonds to the EPF at the following Yield Rates, on the same day [keeping a Profit Margin of 0.0050 on the Yield Rates]:

(a) Rs. 0.5 billion at a Yield Rate of 9.8000

(b) Rs. 0.5 billion at a Yield Rate of 9.8000

Mr. Dias stated that, as mentioned in this letter marked “**C186**”, when carrying out aforesaid transactions, PABC had dealt with Mr. Kasun Palisena of Perpetual Treasuries Ltd and Mr. Indika Saman Kumara of the EPF.

Mr. Dias said that Mr. Kasun Palisena told him the precise details of the Bids that PABC was to place on behalf of Perpetual Treasuries Ltd at the Primary Auction held on 30<sup>th</sup> October 2015.

- 4] When the Commission of Inquiry then asked Mr. Dias whether his evidence was that Perpetual Treasuries Ltd and the EPF told PABC to buy Treasury Bonds from Perpetual Treasuries Ltd and sell them to the EPF keeping a small margin of profit for PABC, Mr. Dias replied in the affirmative.
- 5] When the Commission of Inquiry asked Mr. Dias, *“So therefore in all these cases the EPF would have told you yes we will buy this amount of units of Treasury Bonds at this price. It is only on that assurance given by the EPF, hold on it’s on that assurance given by the EPF, you relied on that and therefore purchased that the Treasury Bonds of Perpetual?”,* Mr. Dias replied *“Yes, Your Honour”*.
- 6] In response to Questions by learned Deputy Solicitor General, Mr. Dias clearly said that PABC had entered into these transactions only after confirming with Mr. Indika Saman Kumara of the EPF, that the EPF would be purchasing these Treasury Bonds at these Yield Rates.

We set out the relevant evidence:

*“Q: So first Perpetual Treasuries calls and says the EPF is bring to buy particular quantity at a particular price?”*

*A: That’s correct Your Honour.*

*Q: Then you call the EPF and ask them whether that is correct ?*

*A: Yes that is right.*

*Q: And it is only if the EPF confirms that Perpetual Treasuries has told you is correct that you go ahead and act as intermediary ?*

*A: Absolutely right sir.*

*Q: Now who at the EPF was contacted with regard to these transactions ?*

*A: It is one Mr. Saman Kumara.”.*

- 7] In reply to Questions asked by learned Deputy Solicitor General, Mr. Dias stated that, in the instances where the EPF sold Treasury Bonds to PABC to be sold to Perpetual Treasuries Ltd, Perpetual Treasuries Ltd had told PABC the quantity of Treasury Bonds which the EPF would sell and the Yield Rates at which the EPF would sell those Treasury Bonds.



We set out the relevant evidence:

*“Q: So in that instance also did Perpetual Treasuries tell you the price at which the EPF would be willing to sell the bond ?*

*A: Yes in all instances.*

*Q: And did Perpetual Treasuries tell you the quantity of bonds that they would be willing to sell ?*

*A: Yes, they did so.*

*Q: Perpetual Treasuries told you the price and the quantity at which Employees Provident Fund would be willing to sell this bonds ?*

*A: You are correct.”.*

Mr. Dias clearly stated that, Mr. Indika Saman Kumara was the only person whom PABC had contacted at the EPF with regard to these transactions. In fact, when Mr. Dias was asked whether PABC contacted any other person at the EPF, Mr. Dias stated, *“No it has always been Mr. Saman Kumara.”.*

Further Mr. Dias stated in response to a question by learned Deputy Solicitor General, that, in all instances, Mr. Kasun Palisena of Perpetual Treasuries Ltd had dealt with PABC with regard to these transactions.

- 8] Some Deal Tickets prepared by PABC with regard to these transactions were marked in the **“C187”** series.
- 9] In response to Questions asked by the Commission of Inquiry, Mr. Dias said that he had seen several instances, where some Primary Dealers such as Perpetual Treasuries Ltd and Wealth Trust Securities Ltd, would engage in transactions in the Secondary Market in Treasury Bonds which had the hallmarks of an exercise in “pumping and dumping”.

Mr. Dias said that, often, the “dump” of Treasury Bonds at low Yield Rates, was to the EPF.

In this connection, when the Commission of Inquiry asked Mr. Dias, *“Yes would be pumping and dumping and the two parties you mentioned in Perpetual Treasuries and Walt Trust [Wealth Trust Securities Ltd] and the dump happened to the EPF ?”*, Mr. Dias replied, *“Yes sir”*.

It should be stated here that, when Mr. Dias was Cross Examined by Ms. Romali Tudawe, Attorney-at-Law, appearing on behalf of Perpetual Treasuries Ltd, Mr. Dias clarified that, his aforesaid observation about Perpetual Treasuries Ltd and Wealth Trust Securities Ltd engaging in the practice of “pumping and dumping”, was based on opinions that were expressed in the Market.

- 10] In response to Questions by learned Deputy Solicitor General, Mr. Dias said that PABC entered into the aforesaid transactions on the instructions of the former Chairman of Pan Asia Banking Corporation, Mr. Nimal Perera.

In this connection, when the Commission of Inquiry asked, *“And what you are saying in these deals were entered into by Pan Asia on Mr. Nimal Perera’s instruction .”,* Mr. Dias replied, *“That’s right Your Honour.”.*

- 11] In reply to Questions asked by learned Deputy Solicitor General, Mr. Dias said that Mr. Nimal Perera had a Company named “NP Capital” which dealt in Treasury Bonds in the Secondary Market and said that Mr. Nimal Perera engaged in the practice of “dumping” Treasury Bonds at low Yield Rates on the EPF.

We set out the relevant evidence in this connection:

*“Q: So, what was your former Chairman Mr. Nimal Perera also engaged in the practice of dumping bonds on the Employees Provident Fund ?*

*A: That’s right Your Honour.*

*Q: And through his personal account and through NP Capital ?*

*A: That’s right Your Honour.”.*

And

*“Q: You are the Pan Asia Bank was also required by Mr. Nimal Perera the then Chairman to fund the purchase and sale of Treasury Bonds to the Employment Provident Fund ?*

*A: That’s correct Your Honour.*

*Q: That is both through his company and on his own account ?*

*A: Individual for his own company.*

Q: *That's NP Capital?*

A: *That's correct.*”.

- 12] When Mr. Dias was Cross Examined by Ms. Romali Tudawe, Attorney-at-Law appearing on behalf of Perpetual Treasuries Ltd, Mr. Dias said that, Transactions where a Primary Dealer acts as an “Intermediary” between two parties who wish to enter into a Transaction but cannot deal directly with each other, are often referred to as “Switching”.

Mr. Dias said that this practice is not unusual and not illegal and is carried out to overcome Counter Party Limits which restrict the Parties who wish to carry out the Transaction.

- 13] Mr. Dias said that, he first met Mr. Arjun Aloysius at the time Mr. Nimal Perera instructed Mr. Dias to deal in the aforesaid manner with Perpetual Treasuries Ltd. Mr. Dias said that, Mr. Nimal Perera had asked him to go to Mr. Aloysius’s office and discuss the manner in which business was to be done.

Mr. Dias said that, he had gone to Mr. Aloysius’ office, where he had also met Mr. Kasun Palisena.

Mr. Aloysius had explained to Mr. Dias, in Mr. Kasun Palisena’s presence, that Perpetual Treasuries Ltd wanted PABC *“to play an inter-mediary role between Perpetual Treasuries and the Employees Provident Fund.”*

Mr. Dias said that, this meeting took place sometime in June 2015.

Mr. Dias said that, there was an instance where Perpetual Treasuries Ltd had requested PABC to place Bids on its behalf at a Primary Auction, but PABC had been unable to do so due to liquidity constraints and that Mr. Aloysius had called him to express his dissatisfaction about this.

In this connection Mr. Dias said, *“I was at a meeting and I got a call from Mr. Arjun Aloysius and he spoke to me in a sort of a threatening manner and showed his dissatisfaction for not bidding in the particular auction.”*

- 14] In response to Questions asked by learned Deputy Solicitor General, Mr. Dias said that he was aware that Perpetual Treasuries Ltd had found difficulty in making settlement of the monies due to the CBSL on 01<sup>st</sup> April 2016, following the Treasury Bonds Auctions held towards end March 2016.

He said that he became aware of this when Mr. Nimal Perera summoned Mr. Dias to his residence situated at Horton Place. Mr. Aloysius and Mr.

Palisena had been at Mr. Nimal Perera's residence when Mr. Dias went there. Mr. Dias said that, Mr. Aloysius had requested PABC to enter into a "sell/buy a transaction" to enable the release of Securities of Perpetual Treasuries Ltd which were being held by the CBSL.

Mr. Dias stated that he was reluctant to enter into this Transaction since it was not prudent for PABC to do so, since PABC would be called upon to release a large amount of cash into Perpetual Treasuries Ltd's Account with the CBSL.

An email sent by Mr. Kasun Palisena to Mr. Dias on 03<sup>rd</sup> April 2016 in connection with the proposed Transaction, was marked "C188".

This email marked "C188" states:

*"Dear Sir,*

*Further to the conversation we had between PABC chairman and Perpetual chairman, kindly approve to engage in outright transactions on Government securities on sell-buy basis effecting same day on net transaction value basis without a fund movement stating Monday 04-04-2016.*

*PTL will purchase and Sell the security to PABC within the day and net value of transaction will be transferred to PABC within 2 hours of first leg.*

*Thank you!"*

- 15] Mr. Dias also said that, before he gave evidence on 05<sup>th</sup> July 2017, Mr. Aloysius had called him on 30<sup>th</sup> June 2017 and asked Mr. Dias to meet him at Mr. Aloysius's residence on Flower Road.

Mr. Dias said that he went to Mr. Aloysius's residence. On that occasion, Mr. Aloysius had told Mr. Dias, even if Mr. Dias was asked to leave the PABC, "there will be a place for me at his company."

Mr. Dias stated that "he [Mr. Arjun Aloysius] told me that the next two weeks is crucial and wanted my support."

Mr. Dias said that the "Call Log" on his mobile telephone shows that, Mr. Aloysius had called Mr. Dias on 3 occasions recently, once on 03<sup>rd</sup> July 2017 and twice on 04<sup>th</sup> July 2017 – ie: before Mr. Dias testified on 05<sup>th</sup> July 2017.

Mr. Dias said that he did not answer those telephone calls.

Mr. Dias said that Mr. Nimal Perera had also telephoned him shortly after Mr. Dias gave a statement to the Police Officers assisting the Commission of Inquiry in March 2017.

Mr. Dias said that Mr. Nimal Perera had asked him whether he had been summoned to give evidence before the Commission of Inquiry and at that stage, because Mr. Dias had not been summoned, Mr. Dias had said that he had not been summoned to give evidence.

Mr. Dias said that Mr. Nimal Perera *“was trying give me an assurance that if something happens that there is a, that he has bought “money broking firm” and that there will be opening for me, there.”*

Screenshots of the “Call Log” on Mr. Dias’s mobile telephone which record all the aforesaid telephone calls were marked from “**C189A**” to “**C189H**”.

- 16] Mr. Dias stated that PABC had granted Banking Facilities by way of a Loan of Rs. 15 million in 2014 and a Loan of Rs. 10 million in 2015 to a Company named “Country Kitchen Confectionary Lanka (Pvt) Ltd”, to part finance the construction of a Commercial Building. Mr. Dias said that, a part of this Commercial Building was to be occupied by Royal Ceramics Lanka PLC and that, Mr. Nimal Perera was the Chairman of Royal Ceramics Lanka PLC.

The related documents were marked, “**C190**” and “**C190A**”.

The document marked “**C190A**” states, *inter alia*:

*“M/s Country Kitchen Confectionary Lanka (Private) Limited is mainly operated the business for manufactory, buy, import, export and distribute all kind of sweets and sugar products such as toffees, chocolates, lozenges and all other confectionaries. Presently, the company is not operating the said business. The company has been Signed agreement with M/s Royal ceramic Lanka for show room building at Ambalangoda Town. Mr. Saman Kumara is the decision maker of the Company (Former Chairman), who manages the business as a salient partner.”*

Mr. Indika Saman Kumara is named as the *“salient partner”* of this Business and the document reveals that the other Directors are his family members. It also refers to Mr. Indika Saman Kumara as an *“affluent business personality who hails from a wealthy business family at Ambalangoda”*, and states that *“Mr. Saman Kumara is a professional banker who is working attached to the Central Bank of Sri Lanka in a capacity of a Senior Manager; by getting Rs.208,000/- monthly gross salary.”* and states *“Further, he is engaging as a project financing consultant for the private firms and earns a substantial income.*

*As well as, the Mr. Saman is an investor of share market who is having not less than Rs. 15 Mn investment portfolio of his family members' name.*". It also states that Mr. Indika Saman Kumara and other promoters recently purchased a commercial land in Ambalangoda investing not less than Rs. 22 million of their own funds and invested Rs. 40 million in the construction of a building on this land.

- 17] Recordings of several telephone conversations which took place in the Dealing Room of PABC between Mr. Kasun Palisena of Perpetual Treasuries Ltd and the Dealers of PABC and between Mr. Indika Saman Kumara of the EPF and Dealers of PABC were produced in evidence marked "**C192**", "**C193A**", "**C193B**" and "**C193C**".

These Recordings clearly show that, these Transactions were "Switching" Transactions in which PABC acted the "Intermediary" to facilitate or disguise a Transaction which Perpetual Treasuries Ltd and the EPF wishes to enter into with each other.

These Recordings also clearly show that, the amounts of the Treasury Bonds which were to be the subject matter of these "Switching" Transactions and the Yield Rates at which these Transactions were to be carried out had been previously determined by Perpetual Treasuries Ltd and that, the details of the Transactions were known to the EPF when PABC telephoned the EPF to effect the Transactions.

We also note that there was no element of bargaining which is usually a characteristic of Transactions between Dealers who conduct this type of transaction and that, in all these instances, it was Mr. Saman Kumara who answered the phone on behalf of the EPF.

- 18] During Cross Examination by Mr. Nihal Fernando, PC, appearing on behalf of Perpetual Treasuries Ltd, Mr. Dias reiterated that PABC carrying out "Switching" Transactions between Perpetual Treasuries Ltd and the EPF was not illegal.

In response to a question by Mr. Fernando whether in such Transactions, "*So there are basically three parties. Buyer, seller and the intermediary ?.*", Mr. Dias replied, "*Yes*".

- 19] Mr. Dias admitted, when asked by Mr. Nihal Fernando, PC, that PABC obtained a "*small profit margin*" on the Transactions conducted.

- 20] During Cross Examination by Mr. Nihal Fernando, PC, Mr. Dias said that, the letter marked "**C186**" had been written by him, at the request of the CBSL.



- 21] In reply to Mr. Nihal Fernando, PC, Mr. Dias admitted that, on 31<sup>st</sup> March 2016, PABC had placed Bids at a Treasury Bill Auction through Perpetual Treasuries Ltd for Rs. 2.2 billion, of which Rs. 1 billion had been accepted.

Mr. Dias stated that this was the only instance where PABC had bid through Perpetual Treasuries Ltd or any other Primary Dealer.

During Cross Examination, Mr. Dias also admitted that a Bid to the value of Rs. 5 billion obtained at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016, had been placed by PABC on behalf of Perpetual Treasuries Ltd.

- 22] In reply to Mr. Nihal Fernando, PC, Mr. Dias said that Sri Lanka Insurance Corporation can only receive delivery of Treasury Bonds through a Primary Dealer which is also a Commercial Bank with whom Sri Lanka Insurance Corporation maintains a Custodial Account. The evidence makes it clear that, Sri Lanka Insurance Corporation was a Customer of PABC and that, therefore, sales that Perpetual Treasuries Ltd wished to make to Sri Lanka Insurance Corporation were to be routed through PABC.

- 23] In response to a Question from the Commission of Inquiry, Mr. Dias said that PABC would not trade on its own account in respect of Treasury Bonds which had a Tenor of over 5 years.

- 24] During cross examination by Mr. Kalinga Indatissa, PC, Mr. Dias stated that although he had received several telephone calls from Mr. Aloysius recently, he had not answered those telephone calls and that, in any event, there had been no conversation between him and Mr. Aloysius at or about the time Mr. Dias gave evidence before the Commission of Inquiry.

When Mr. Indatissa asked Mr. Dias, *“So between the 4<sup>th</sup> of July and the 7<sup>th</sup> of July when the screen shots were taken there were no conversation between you and Arjun Aloysius. Correct?”*, Mr. Dias replied, *“Yes”*.

- 25] In response to a question by Ms. Romali Tudawe, Attorney-at-Law, appearing on behalf Perpetual Treasuries Ltd, Mr. Dias said that there were some instances where, at the time PABC acted as “Intermediary” to switch Treasury Bonds purchased from Perpetual Treasuries Ltd, which PABC then sold to the EPF, PABC had added on to the quantities of Treasury Bonds which it held on its own account and sold the aggregate amount to the EPF.

Mr. Dias said that there were other instances where Treasury Bonds were sold to the EPF or other Buyers at the request of other Clients of PABC.

Mr. Dias said that, this practice was referred to as “piggy backing”.

Mr. Dias said that, one of the Clients of PABC who engaged in this practice of “piggy backing”, was ‘NP Capital’.

In this connection, Mr. Dias stated, *“The initial purchase we have purchased from Perpetual. This is Your Honour the deal arranged by Mr. Nimal Perera with Perpetual. Perpetual has initially sold 2 billion to Mr. Nimal Perera, NP Capital. Since they cannot deal directly each other we have bought from Perpetual Treasury first. Then we have sold to NP Capital. Then NP capital sold back again to us because NP Capital cannot deal directly with the EPF and then we have sold to the EPF.”*.

- 26] When cross examined by Ms. Tudawe, Attorney-at-Law, Mr. Dias said that PABC had facilitated many Transactions in Treasury Bonds on behalf of Mr. Nimal Perera.

In this connection, in response to Questions asked by the Commission of Inquiry, Mr. Dias gave the following evidence:

*“Q: Just a minute. Mr. Dias, did you do many sales and purchases of government securities of the instructions of Mr. Nimal Perera ?*

*A: Yes. Sir your Honour we have done.*

*Q: Were there many sales to the EPF by Mr. Nimal Perera ?*

*A: Most of the sales were ended up with the EPF.*

*Q: In those instances how did Mr. Nimal Perera give you instructions ?*

*A; Over the phone.*

*Q: When he gave instructions over the phone did he specify the rate and a amount or did he just says sell at the best rates ?*

*Q: No. he specifies the amount and the rate and wanted us only call and confirm.*

*Q: Right. So did he what a, when you say, he gave rate and a amount and wanted us to call and confirm, what do you mean by that ?*

*A: He said to call and confirm it to, call the EPF Saman Kumara and confirm it.*

Q: *So you are telling this Commission that Mr. Nimal Perera told you the rate at which the EPF would buy these government securities ?*

A: *Yes, your Honour.*

Q: *And the amount too ?*

A: *Yes, your Honour.*

Q: *And then on those instructions did you send him, Mr. Nimal Perera confirmation ?*

A: *Yes, we have.*

Q: *Right, then when you call the EPF what did you tell the EPF ?*

A: *Is mostly my traders who were called I think voice recordings have been given where have it's available your Honour.*

Q: *Summarize it for us.*

A: *The have said deal එකක් මේ වගේ නියෝගවා තේද? සමන් and he ask මේක තේද rate එක then he buys the rate, it gives impression that he was aware of the transaction and the rates everything when we call.*

Q: *In your evidence of this Commission is, correct me if I am wrong that the sales which Mr. Nimal Perera made to the EPF, the government securities sold to the EPF were pre-arranged between Nimal Perera and the EPF. Is that your evidence?*

A: *Yes."*

We note that, although the evidence before this Commission of Inquiry suggests that, Mr. Nimal Perera, former Chairman of PABC, had engaged in improper and wrongful Transactions with the EPF and benefitted thereby, these Transactions have not been established to fall within the scope of our Mandate.

Therefore, we did not summon Mr. Nimal Perera to appear before us and, accordingly, we cannot arrive at a determination adverse to Mr. Nimal Perera in these Proceedings.

However, we intend to recommend that, a specific and detailed investigation be conducted into the Treasury Bond Transactions which Mr. Nimal Perera and his Company and other Clients of PABC, had with the EPF.

**Section 5.38** - **Mr. B. H. I. Saman Kumara**

Mr. Indika Saman Kumara having obtained a First-Class Division degree in Engineering from the University of Moratuwa, joined the Central Bank in the year 2003. He rose to the position of a Senior Assistant Director and had worked at the EPF till 2011. Thereafter he was transferred to the Public Debt Department where he worked in the Primary Dealer Supervision Department for a short while. Subsequently he had functioned in the Middle Office, Back Office and the Front Office of the Public Debt Department. He was then transferred back to the EPF in June 2015, whilst working in the Front Office of the PDD. He served the EPF Department till August 2016.

The evidence of Mr. Saman Kumara covered three major areas, ie. his duties and functions at the EPF and the PDD; the assets belonging to him and his explanation as to the manner in which those assets were acquired; and his dealings with outsiders when he dealt with or engaged in relation to his official duties.

The relevant evidence of this witness is:

- 1] Mr. Saman Kumara had initially served in the EPF Department for about 9 years and thereafter, for about a year, from June 2015. He was the Chief Dealer of the EPF when he functioned in that Department in the year 2015. Therefore, he had the opportunity to develop relations with the Primary Dealers. In fact, he has stated that it was essential to have cordial relationships with the Primary Dealers, particularly when working at the EPF and the PDD. He had a very good relationship with Mr. Arjuna Mahendran when he was the Governor and Mr. Mahendran had selected Mr. Saman Kumara as a member of the Team that made representations to a Minister holding an important portfolio, as to the manner in which the Treasury Bond Auction was held on 27<sup>th</sup> February 2015.
- 2] Mr. Saman Kumara and his family members hold a substantial volume of assets in various parts of the country. He has built a three-storied house in Ambalangoda recently. His family owns two companies that were incorporated in 2014 or afterwards. One of which owns a fuel station in Hatton which was formerly owned by M. R. Fernando & Company. It has two bowsers to transport fuel. His wife Ms. Kalhari Masakorala runs a retail clothes business in the Ambalangoda town by the name of "Grilly". She along with another person by the name of Ashroff had started a gem business last year. When he was questioned as to how he found gems for this business, Mr. Saman Kumara said that those gems belonged to his late father. However, he said that his father

died in the year 2009 and that the gems he was speaking of, had been in the possession of his mother, till the said gem business was commenced in 2016. He also stated that he bought a property in the name of his wife in the heart of Panadura City in front of the Bus Station. He also has a valuable property with a four-storied building in Ambalangoda and the first two floors of this building were given on rent to the company “Royal Ceramics” to be uses as their show-room. He and his wife own two cars. He maintains 19 accounts in nine different Banks. Mr. Saman Kumara said that he did not submit the assets and liabilities declaration to the Central Bank for two years or so and admitted that it is an offence.

- 3] Audio recordings of telephone conversations played during the proceedings of the Commission revealed that Mr. Saman Kumara had cordial relations with the Primary Dealers, particularly with dealers of Pan Asia Banking Corporation. In his evidence, he stated that he has met with Mr. Arjun Aloysius of Perpetual Treasuries Ltd. Mr. Saman Kumara has also associated Mr. Nimal Perera who was the Chairman of both Pan Asia Banking Corporation and “Royal Ceramics”. However, he stated that it is necessary to have relations with the Primary Dealers when dealing in the Bond Market. We note that Mr. Saman Kumara has associated Mr. Arjuna Mahendran closely, though he was holding a much lower rank in the Central Bank.

**Section 5.39 - Mr. S.R. Attygalle**

Mr. Attygalle is a Deputy Secretary to the Treasury and has been serving in that capacity from 2012.

The relevant evidence of this witness is:

- 1] This witness stated that, in instances where the PDD failed to raise a part of the amount required during a particular month as set out in the Daily Cash Flow Statement prepared by the Department of Treasury Operations, the Treasury was sometimes able to raise the shortfall from a surplus in the estimated Revenue and/or a reduction in the estimated Expenditure for that month.
- 2] Mr. Attygalle said that, in January 2015 and February 2015, although the PDD may have failed to raise the amount specified in the Daily Cash Flow Statements, the Treasury had been able to raise sufficient Funds to meet the Funding Requirement in those months. In this connection, Mr. Attygalle produced the documents marked “C114”.

In this connection we set out the relevant Evidence when Mr. Attygalle was examined by learned Senior State Counsel:

*“Q: Mr. Attygalle, with specific reference to the cash flow statements of January and February 2015 are you in a position to say, that was no shortfall for the funding of the cash requirement for those two months. For January and February?”*

*A: Yes.*

*Q: And in fact in January 2015, you have said that the actual cash flow requirement was met and that there was no shortfall for January, and that in February, there was in fact an excess in terms of cash that has been collected?”*

*A: When you compare the actual numbers, yes.”.*

- 3] Mr. Attygalle also stated that, neither the Secretary to the Ministry of Finance nor the Minister of Finance had indicated to him, in February 2015, that there was any urgent Funding Requirement of the Government which had not been included in the Daily Cash Flow Statements then sent by the Department of Treasury Operations to the PDD.

In this connection we set out the relevant Evidence:

*“Q: Right. During the month of end of February or early February, prior to the 27<sup>th</sup> of February 2015, did the Secretary to the Ministry of Finance indicate to you in anyway that there was an urgent funding requirement other than what is reflected in your cash flow statement?”*

*A: No.*

*Q: Did the Minister of Finance indicate to you that there was any urgent financing requirement?”*

*A: No.”.*

- 4] When Mr. Attygalle was Cross Examined by Mr. Chanaka De Silva, Attorney-at-Law, appearing on behalf of Mr. Mahendran, Mr. Attygalle admitted that any surplus Funds that may have been obtained by the Department of Treasury Operations, to meet a shortfall in Funds raised by the PDD, was a fact known to the Department of Treasury Operations and not necessarily known to the CBSL.



In this connection we set out the relevant Evidence during the Cross Examination by Mr. Chanaka De Silva, Attorney-at-Law:

*“Q: So, the Central Bank will carry out its fund-raising operations based on the requirements indicated to them by that document. Is that correct?”*

*A: That is right.”.*

And

*“Q: As far as the Central Bank is concerned, as to how you’re going to manage the outflows and inflows during the month, they don’t know ? Is that correct?”*

*A: They don’t?*

*Q: Know?*

*A: They don’t know how we managed. Yes.”.*

Thus, Mr. Attygalle admitted that the CBSL may not be aware of the manner in which the Department of Treasury Operations may have adjusted any shortfall in the Funds raising by the PDD during a month.

- 5] In reply to the Commission of Inquiry which asked Mr. Attygalle further questions on this issue, Mr. Attygalle said that the PDD and the CBSL would not know whether or not the Department of Treasury Operations would have raised money to meet a shortfall in Funds, which the PDD may have failed to raise during a month.

We set out the relevant Evidence:

*“Q: So, when they are raising funds for the next month, do they have any particular idea as to what exactly had happened in the Treasury with regard to the monies that you raised and your cash flow?”*

*A: No. One to one I don’t think so.*

*Q: They would not know?*

*A: No.*

*Q: So in the month of March would they have known your final situation as at the month of February ?*

A: No. I don't think so."

**Section 5.40 - Mr. W.G. Prabath**

Mr. W.G. Prabath is the Deputy Superintendent of Public Debt.

The relevant evidence of this witness is:

- 1] During the course of each day, Primary Dealers submit their Two-Way Quotes on Treasury Bonds traded in the Secondary Market to the PDD.

Some Primary Dealers submit their Two-Way Quotes in respect of all Treasury Bonds in the Market, while some other Primary Dealers submit Two-Way Quotes only in respect of Treasury Bonds that they are dealing in.

- 2] The PDD calculates the average Secondary Market Yield Rate using these Two-Way Quotes submitted by Primary Dealers. These average Yield Rates are published by the CBSL each day.

The daily average Yield Rates prepared in the above manner by the PDD was produced in evidence, marked "**C197**".

- 3] Mr. Prabath stated that, these average Yield Rates published by the PDD and set out in "**C197**" are all "*Clean Prices*" which do not include Accrued Interest payable on the Treasury Bonds.

He stated that the prices set out in the document marked "**C174**" are "*Dirty Prices*" which include Accrued Interest.

- 4] Mr. Prabath also stated that, the Yield Rates set out "**C197**" are only Quotations given by Primary Dealers and are not, necessarily, actual Market Prices at which transactions are carried out in the Market.

- 5] The witness also explained the structure of an ISIN. He said that:

- i. The first two letters "LK", denote Sri Lanka.
- ii. The next letter "B" denotes, Bond.
- iii. The next three digits denote, the tenor of that Treasury Bond going up to a possible tenor of 100 years.
- iv. The fourth and fifth digits denote, the last two digits of the year in that Treasury Bond matures.
- v. The next letter denotes, the month with January being "A" and December being "L".

- vi. The two digits after that letter denote, the day of maturity in that month.
- vii. The last digit is a unique number allocated to that ISIN only.

**Section 5.41** - **Ms. M. A. Vinodini**

Ms. M.A. Vinodini is a Director of a Company named “East West Properties PLC”. She had had her primary and secondary education within and outside Sri Lanka. She had attended Durham University and earned a degree in Business Finance in 2009. After graduation, she had worked as a Director in a Company called “Hotel Services PLC”. Later she had become a Director of “Weligama Hotel Properties” (a subsidiary of East West Properties PLC) which is involved in the Marriot Hotel Project. She is a Director in both of these Companies.

The relevant evidence of the witness is:

- 1] Ms. Vinodini stated that she bought an apartment on the 5<sup>th</sup> Floor, at Monarch Residencies in Kollupitiya. She also stated that this apartment has been classified as a Penthouse apartment by the management of Monarch Residencies. It is an amalgamation of two adjoining apartments bearing premises numbers “Y/F5/U2” and “Y/F5/U3” and was bought for a sum of Rs. 120 Million, which according to her, was a sum that was gifted to her by her father. Prior to moving in, she had spent Rs. 10 Million, to renovate the apartment. She had moved into the apartment in November 2015 and had occupied the same for a period of 3 months, until January 2016. Due to her other business involvements, she had then decided to lease the apartment.
- 2] The witness then stated that on 27<sup>th</sup> January 2016, her elder brother Mr. Vijitha Wijesuriya had told her that Mr. Ravi Karunanayake had called and inquired if there were any apartments available to rent offered by their Company named Crescat Investments, which is a subsidiary company that rents out apartments at Crescat Residencies. During the course of the same telephone conversation, the phone was passed on to Mrs. Mela Karunanayake, the wife of Mr. Ravi Karunanayake. Afterwards, Mr. Vijitha Wijesuriya had called Mrs. Mela Karunanayake and had informed her about the availability of the said apartment. Mrs. Mela Karunanayake had wanted to look at the apartment that day itself, and had done so at around 1.00 or 1.30 pm. Mrs. Mela Karunanayake had mentioned that her house in Kotte was being renovated and that they were looking for an apartment to stay in, until renovations were completed in 6 months time.
- 3] There is evidence to show that while inspecting the apartment Mrs. Mela Karunanayake had made a call to another person and had informed Ms. Vinodini that a friend who is mutually known to them would be joining them

soon at the apartment. Soon after, Mr. Arjun Aloysius had turned up at the apartment and later proceeded to inspect the apartment.

- 4] According to the witness, Mr. Arjun Aloysius had said that he was the person who was renting out the apartment and the witness had agreed. However, he had informed her that the occupants would be the Karunanayake family. They wanted the apartment only for a period of 6 months and the lease value for 6 months was Rs. 7.3 Million. In her evidence, Ms. Vinodini stated that her negotiations for the lease were with Mr. Arjun Aloysius and his representatives and were conducted with the assistance of her lawyers. With regard to the preparatory work leading to the entering of the lease agreement, Mr. Chaminda Sanath Bandara of a Company named Walt & Row (Pvt) Ltd, had got in touch with Ms. Vinodini's lawyers. The lease agreement marked "C199F" which she entered into with Walt & Row (Pvt) Ltd, for the apartment 5PH2 was signed by Mr. Kadadoredara Chaminda Sanath Bandara as the authorized signatory on behalf of Walt & Row Associates (Pvt) Ltd. Ms. Vinodini stated that thereafter the Karunanayake family was in occupation of the said apartment during the period of the lease agreement.
- 5] Ms. Vinodini stated that she came to know Mr. Arjun Aloysius through Mr. Ajahn Punchihewa. She had also known that Mr. Arjun Aloysius studied at Colombo International School, as she had also attended the same school. The witness stated that Hon. Ravi Karunanayake knows her father quite well. However, she stated that she has no relationship with him as such, despite having met and spoken with Mr. Karunanayake on previous occasions. Ms. Vinodini said that she came to know Ms. Onella Karunanayake, the daughter of Mr. Ravi Karunanayake only when she rented the apartment. Ms. Onella Karunanayake had also attended the same school as the witness, but Ms. Vinodini stated that she did not know her personally at the time. In her evidence, she stated that her friendship with Ms. Onella Karunanayake had started in January/ February 2016.
- 6] Ms. Vinodini stated that while the Karunanayake family was in occupation of the apartment, Mr. Arjun Aloysius had contacted her and asked her as to where her copy of the lease agreement was. He had also told her that he "destroyed" his copy of the lease and that he hoped that she would also do the same. She had stated that the lease agreement was all part of public records and had then ended the conversation.
- 7] Ms. Vinodini stated that, by the time the lease period of 6 months was over, she knew that the Rajamalwatta Residence was "*nowhere near ready*". Therefore, she had told the Karunanayake family that they could stay for another 2 months, which could be covered by the refundable deposit and in those two months they could either vacate or buy the apartment.

- 8] Subsequently, Ms. Onella Karunanayake had contacted Ms. Vinodini regarding the sale of the apartment and had expressed her willingness to purchase the property at Rs. 165 Million, to which Ms. Vinodini had verbally agreed. Ms. Onella Karunanayake had said that they would obtain a loan for this purpose and that Mr. B.J. Sinniah, the Chief Financial Officer of Global Transportation and Logistics (Pvt) Ltd would liaise with Ms. Vinodini for this purpose with her lawyers regarding the preparation of the documentation. The Agreement to sell the property which was marked as “**C199K**” was executed accordingly and the parties to the same are Global Transportation and Logistics (Pvt) Ltd and Ms. Vinodini. The said agreement was signed on 06<sup>th</sup> September 2016 and in that document the final date of completion of the sale is mentioned as 30<sup>th</sup> September 2016. The purchase price of the agreement was Rs. 165 Million, out of which a non-refundable deposit of Rs. 16.5 Million was paid as an advance and the balance sum of Rs. 148.5 Million of the consideration, was to be paid on 30<sup>th</sup> September 2016. Thereafter, the Karunanayake family had informed Ms. Vinodini in September 2016, that they were ready to purchase the apartment as agreed.
- 9] The document marked “**C199L**” is the transfer deed that transferred the title of the property from Ms. Vinodini to Global Transportation and Logistics (Pvt) Ltd. The document was attested by Mr. G.G. Arulpragasam, Attorney at Law and according to the attestation of this document, there is reference to Ms. Vinodini signing the deed as the Transferor and B.J. Sinniah and Munasinghe Liyanaarachchige Dilhara Mabharana as the witnesses. At the time of sale, Ms. Vinodini has received a sum of Rs. 16.5 Million. A Banker’s Draft marked “**C199M**” amounting to Rs.148.5 Million was issued at the time the deed of transfer was executed. When Ms. Vinodini attempted to deposit the said Draft, it had to be split into 2 cheques as the amount exceeded Rs. 100 Million. So, the cheque had to be cancelled and later they had made special arrangements with the Central Bank of Sri Lanka to ensure a direct transfer of funds amounting to Rs. 148.5 Million in favour of the transferor.
- 10] Ms. Vinodini stated that she is not aware of a Mortgage Bond bearing No. 2165 executed in favour of Seylan Bank PLC over this property.
- 11] With regard to the sale that took place subsequently, she said that neither Mr. Arjun Aloysius nor Perpetual Treasuries Limited was involved. According to her evidence, she stated that she was of the opinion that the Karunanayake family continues to live in the apartment which was sold to them by her.

Mr. B.J.R. Sinniah had been a banker with more than 36 years of experience in that field. He has worked at Hatton National Bank for nearly 36 years and thereafter had served on the Bank of Ceylon Board of Directors during the year 2015. He was also a Director of the Merchant Bank of Sri Lanka, as a representative of Bank of Ceylon. Mr. Ravi Karunanayake was instrumental in appointing Mr. Sinniah to the Bank of Ceylon. Mr. Sinniah joined the company Global Transportation and Logistics Private Limited on 01<sup>st</sup> November 2013 as the Chief Financial Officer and continues to function in that capacity.

The relevant evidence of this witness is:

- 1] Mr. Sinniah in his evidence stated that he joined Global Transportation and Logistics (Private) Limited on 01<sup>st</sup> November 2013 and was Reporting to Mr. Ravi Karunanayake who was the Managing Director of the company at that point of time.

Once Mr. Ravi Karunanayake ceased to be the Managing Director, he was Reporting to the Executive Directress, Ms. Onella Karunanayake, daughter of Mr. Ravi Karunanayake. When Mr. Sinniah joined, the Chairman of the aforesaid company was Mr. T.V. Lakshmi Kanthan and the other members of the Board were Mr. Ravi Karunanayake, Mrs. Mela Karunanayake (Wife of Mr. Ravi Karunanayake) and the Chairman's son Mr. Lakshmi Shankar. Mr. Ravi Karunanayake resigned from the Board of Directors around 08<sup>th</sup> or 09<sup>th</sup> January 2015, when he was appointed the Minister of Finance.

- 2] The witness stated that another company named "OSM Holdings" owns approximately 70% of the shares of Global Transportation and Logistics (Private) Limited and the balance 30% was owned by a foreign company, named Hampton Group Development S.A. which is represented by Mr. Lakshmi Kanthan and Mr. Lakshmi Shankar. OSM Holdings is represented by Mrs. Mela Karunanayake and Ms. Onella Karunanayake.
- 3] Mr. Sinniah also said that in or around July 2016, he was instructed by local Directors, Ms. Onella Karunanayake and Mrs. Mela Karunanayake of Global Transportation and Logistics (Private) Limited that they wanted to take steps to procure a housing apartment in the name of Global Transportation and Logistics Private Limited. He then stated that he was informed that the Board of Directors of the company had decided to purchase the apartment at the Monarch Residencies in Colombo 03. Initially he was informed that it was for the use of the Chairman of the Company or his family and for their foreign



clients when they visit Sri Lanka. He further said that they were of the opinion that whenever the apartment is not in use, and that it could be easily rented out on a short-term basis and the income derived would be given to the company. However, his evidence was that the apartment is still being occupied by the Karunanayake family, which was initially obtained on the premise that it would be rented out. He observed that the said Apartment has not been given on rent at least for a single day since purchase.

- 4] The witness stated that Mrs. Karunanayake and Ms. Karunanayake requested Mr. Sinniah to apply for a loan to purchase this property and he had accordingly negotiated with Seylan Bank to obtain approval for a loan. When Mr. Sinniah was asked whether it was an indication of the fact that at the time the Global Transportation and Logistics Private Limited did not have sufficient money to purchase the apartment, he replied affirmatively. He also said that the apartment was never used for the purpose of the Company as the Directors were living there.
- 5] The witness further said that the two Directors were there in that apartment whenever he had been asked to come for meetings with them. However, the witness said that he could not answer the question of whether they were living on rent or in some other capacity. He also said that the decision to purchase the apartment was taken around mid-2016 when Mr. Ravi Karunanayake and his family were in occupation of the apartment and said that he assumed that they were tenants since early 2016. Mr. Ravi Karunanayake, Mrs. Mela Karunanayake and Ms. Onella Karunanayake continue to live in the purchased apartment at Monarch Residencies.
- 6] The witness stated that he was told to negotiate with the owner Ms. Vinodini, for the purpose of processing a loan to purchase the property and also to collect the title deeds from the legal firm D.L.F. de Saram. The witness then said that he gave the deeds to Seylan Bank and thereafter the Bank had informed that the value of the property is not adequate to cover their risks and they can only give Rs. 72 million against the property. The Bank had also suggested that the company could give an additional mortgage in respect of the Company's Seeduwa property amounting to around Rs. 78 million to cover the balance requirement.
- 7] Accordingly, the parties have agreed that the sale price would be Rs.165 million. Mr. Sinniah represented the Company for the purpose of obtaining the loan but all other negotiations between the seller and the company were carried out by the Company's Directors, Mrs. Mela Karunanayake and Ms. Onella Karunanayake. Mr. Sinniah also said that he was present at the time the Agreement to Sell was entered in to by the parties and he had also signed the document but he was not sure whether he signed as a witness or in some other

capacity. However, he said that he did not have the authority to sign for the purchase of the property.

- 8] Mr. Sinniah stated that at the time the Agreement to Sell was entered into, he was called upon to provide an advance payment of Rs. 16.5 million. The witness then said that a cheque amounting Rs.16.5 million was issued to Ms. Vinodini out of the money belonging to the Chairman Mr. Lakshmi Kanthan, that was inside the Company safe and it was done so upon the authorization given by the Directors of the company. The witness also said that there was roughly about Rs. 25 million (liquid cash) in the safe out of which Rs. 16.5 million was paid to Ms. Vinodini.
- 9] According to the evidence of this witness, the said money that was supposed to have been in the safe belongs to the Chairman, Mr. Lakshmi Kanthan. He also said that it is the practice of Mr. Kanthan and the company to keep the money in that manner. Witness said that in February 2016, when Mr. Lakshmi Kanthan came down to Sri Lanka, he (Mr. Kanthan) had kept about Rs. 70 million in cash in the safe, which was in the custody of the witness. The witness said that he did not issue a receipt to acknowledge the receipt of the said amount which was in liquid cash. The witness has replied that he had Rs. 50 million in the safe though there is no documentation to support that Mr. Lakshmi Kanthan has dumped Rs. 70 million in cash into the safe, kept at this company. He then said that the said Rs. 70 million was brought in two parcels by Mr. Lakshmi Kanthan in February 2016. The witness stated that he is not aware as to whether Mr. Lakshmi Kanthan brought the money in rupees or in dollars.

Mr. Sinniah said that the first installment of the loan, was due around October 2016 and the Company didn't have money to pay the same. The witness then said that Ms. Onella Karunanayake informed him that she will speak to the Chairman for his permission to take the money from the safe in order to pay the Bank to service the first installment. He further stated that the first eight installments of the loan were paid with the Board's permission using the Chairman's money. In February 2017, the Chairman had given another Rs. 75 million to the company. The witness stated that he does not know the manner in which the Chairman acquired Rs. 70 million and Rs. 75 million. He has not issued a receipt to the Chairman upon receipt of the monies on both of these occasions. The witness further stated that whenever the loan installment was paid, it was accounted for and shown in the books as an advance from the Directors. He further said that whenever the Company paid the Bank, the Company issued invoices to support the payment. However, the witness has said that what Mr. Lakshmi Kanthan gave in cash is not reflected in the accounts, but that it is entered in the account books as an advance.

- 1] Mr. R.A.A. Jayalath joined the Central Bank of Sri Lanka on 01<sup>st</sup> March 1990 and held positions at the Economic Research Department – Governor’s Research Unit for about 06 months and then at the Banking Development Department and Bank Supervision Department. He was a Dealer and then the Chief Dealer, Deputy Director and Additional Director of the International Operations Department. He was Director of the Domestic Operations Department and was appointed as Superintendent of EPF on 14<sup>th</sup> February 2015 and was then promoted to the position of Assistant Governor on 16<sup>th</sup> April 2016.

The witness said that there were three Additional Superintendents, two Deputy Superintendents and about 160 officers working in the EPF Department. There are two major Divisions i.e. the Fund Management Division manned by about 12 officers and the Operations Division manned by about 148 officers. Fund Management Division [FMD] is governed by Investment Trading Guidelines which were revised in 2011. *“The objective of these guidelines is to streamline the investment divisions, decision making process of the EPF for the Fund and to facilitate maximizing return on the Securities Portfolio while managing the risk at acceptable level”.*

- 2] Mr. Jayalath said that the Monetary Board was empowered to make investment of monies which are immediately not required and has delegated its authority in this regard to the Investment Committee and the Management of the portfolio has been delegated to the Fund Management Division of the EPF.

The witness referred to the Investment Portfolio and said that Treasury Bills and Bonds are bought to generate regular interest income and they are held to maturity.

The Front Office of the FMD in consultation with the Middle Office recommends the Yield Rates and the amounts to be invested in Treasury Bills and Treasury Bonds to be issued at Auctions and accepted by way of Direct Placements, through the PDD. The above recommendations are then submitted at the next Investment Committee Meeting for ratification. Similarly, the Front Office in consultation with the Middle Office recommends Yield Rates and amounts for Government Securities to be purchased from the Secondary Market and to be sold in the Secondary Market whenever there are opportunities to enhance the return and where there is a request from the Back Office regarding urgent liquidity needs.

The witness said that the delegation of authority empowers the Head of the Front Office of the FMD to invest in the Primary Market up to Rs. 5 Billion; Deputy Superintendent up to Rs. 10 Billion and the Additional Superintendents up to Rs. 20 Billion. The Superintendent of EPF has no limit. In the Secondary Market, the Head of the Front Office is empowered to invest up to Rs. 2 Billion, Deputy Superintendent up to Rs. 3 Billion, Additional Superintendent up to Rs. 5 Billion and the Superintendent of EPF up to Rs.10 Billion.

The witness said that during his time as Superintendent of the EPF, Ms. Mampitiya was the Assistant Governor. Mr. A G. M. Thillakaratne had been the Additional Superintendent and Mr. Dharmawardena and Mr. T.T.A. Karunaratne had functioned as Additional Superintendents up to 22<sup>nd</sup> September.

- 3] The witness said that under the Trading Portfolio, the Superintendent of EPF can go up to Rs.10 Billion, Additional Superintendent up to Rs. 5 Billion, Deputy Superintendent up to Rs.3 Billion and staff officers attached to the Front Office up to Rs.500.0 Million.

He said that at least prior verbal approval is required to exceed the limits specified prior to executing the transaction.

Mr. Jayalath also said that prior approval of the Investment Committee is required to transfer the shares of the Investment portfolio or the Trading portfolio, and the limit on trading is Rs. 500 Million by staff officers on any day.

The witness said that he was not aware that of there being similar guidelines in force prior to 2014. He said that there is an approved list of companies where buying and selling of shares are done and initial approval to include the name of a company is made by the Middle Office and ultimately the Superintendent is responsible. The witness admitted that the critical decision of the EPF with regard to purchase and sale of shares is made by the Middle Office.

- 4] Mr. Jayalath said that there were several transfers from the EPF and initially Mr. Padumanapan who was handling Government Securities and Mrs. Dilini Udugamakorala who was handling equity were transferred to the Public Debt Department (PDD).

The witness stated that Mr. Padumanapan was in the Middle Office and that he was the key person handling Government Securities and Mrs. Dilini had functioned as Assistant Superintendent responsible for the equity portfolio. In the Front Office, Mr. Udayaseelan and Mr. Naveen Anuradha had been working and they had been transferred out against Mr. Jayalath's wishes. He stated that

he had spoken to Mr. Samarasiri who was the Senior Deputy Governor at the time and told him that he needed Mr. Padumanapan and Mrs. Dilini Udugamakorala or someone like them, but his request had been disregarded. These transfers were not made by the Director of the Human Resources Department, but with the approval from higher authorities. He stated that this happened somewhere in April 2015.

Mr. Saman Kumara was transferred to the EPF on 08<sup>th</sup> April 2015 and the witness had initially placed him in the Risk Management Division of the FMD. The following day i.e. on 09<sup>th</sup> April, he had received a call from Mr. Mahendran, and the witness recalls the Governor having shouted at him saying that he has sent a CFA qualified fellow, who had gone and told him that he was not put to the Front Office. The witness stated that he was frustrated but that it was the witness' duty to assign officers to particular jobs. He had wanted to test Mr. Saman Kumara before assigning a task which entailed a degree of responsibility.

The witness said that he was aware that Mr. Saman Kumara has previously worked in the EPF and was involved in questionable transactions and that he was unable to take responsibility for his transactions. The witness had asked Mr. Mahendran for one week to place Mr. Saman Kumara in the Front Office. Mr. Jayalath stated that it is unethical for any officer to approach the Governor of the CBSL and to ask for any specific assignment.

Mr. Saman Kumara had been trading in equities. Mr. Mahendran had telephoned the witness one day and had wanted the Daily Report on trading in equities be sent to him. Though it concerned only significant transactions, all transactions entered into had been later sent to Mr. Mahendran by the witness. He stated that this was not the practice of the CBSL, but it had been initiated by the former Governor, Mr. Mahendran. The witness also stated that there is no provision in the Investment and Trading Guidelines for such a report to be submitted to the Governor on a daily basis.

- 5] In reply to questions from the Commission the witness agreed that prior to 30<sup>th</sup> October 2015, EPF transactions were mostly at Primary Auctions and on a few scattered days, in the Secondary market. In November 2015, there had been a very high volume of transactions and Mr. Saman Kumara had been serving in the Front Office during this period, carrying out investments in Government Securities.

The witness had spoken to the Governor and requested Mr. Padumanapan, Mrs. Dilini Udugamakorale be sent to the EPF. The Governor had said that he

wanted Mr. Padumanapan in the PDD and had requested him to send the witness some skilled people.

Mr. Mahendran said that he had have given the witness a CFA qualified person and for him to make use of him to generate more return to the EPF.

Mr. Saman Kumara who was working at the Front Office, dealing with Government Securities was made Head of the Front Office consequent to the transfer of Mr. Udayaseelan and Mr. Anuradha of the Front Office from 01<sup>st</sup> October 2015 onwards. Since Mr. Saman Kumara was the only experienced officer in the Front Office he had started handling Treasury Bonds. During this period, the witness had made a request to the Governor to install a Voice Recording System in the Front Office of the Fund Management Division of the EPF. However, the witness observed that they had not received the system until he left the EPF on 16<sup>th</sup> April 2016.

- 6] Mr. Jayalath admitted that there were rumours in the market about Treasury Bond transactions involving the EPF. In this connection Mr. Chrisantha Perera, an Appointed Member of the Monetary Board had telephoned the witness and said that there is an email that is being circulated about EPF transactions. Thereafter, Mr. Mahendran had called the witness and showed him the said email and requested Mr. Jayalath to investigate into the matter. The witness had thereafter carried out an investigation with the assistance of the officers of the Middle Office and the Risk Management Division. At the conclusion of this investigation, the witness had submitted a Report. However, he states that he is unaware as to what follow up action has been taken on in that regard.

The witness had carried out a further inquiry and the Report had been submitted in October 2016 after Dr. Coomaraswamy had been appointed as the Governor.

The witness in his note to the Monetary Board had stated that he had investigated into the email concerning collusive activities by EPF Dealers and that he had submitted the report to Mr. Mahendran, but that he had not received the file until April 2016.

The witness was asked to investigate into the matter again in October 2016 and with the assistance of the IT Department and he had retrieved a copy of the report submitted earlier to Assistant Governor Karunaratne.

The Report covers Primary and Secondary Market purchases and two Yield to Maturity Graphs.



He stated that the Preliminary investigation was done in February 2016 on the Secondary Market Dealing Practices of the EPF on Government Securities covering the period 01<sup>st</sup> November 2015 to 08<sup>th</sup> February 2016. The witness stated that there were significant adverse movements and it was extremely difficult to prove intentional action for personal gain. However, he believes that it could be negligence on the part of the Dealer in the EPF. He states that the transactions done with counterparties arouse reasonable suspicion, negligence or collusion and that in the absence of Voice Recording evidence, to prove that position was not an easy task.

- 7] Mr. Jayalath was asked to listen to some Voice Recordings played, which are marked “C192” and “C193”.

The witness was referred to the Voice Recordings of telephonic conversations between officers of Perpetual Treasuries Ltd and Pan Asia Banking Corporation PLC and he agreed that there were pre-arranged transactions.

The witness further said they were concealing information from the approving authority i.e. from the witness or someone else. Then another set of Voice Recordings were played to the witness and he said that if those recordings were available for his investigation he would have reached the conclusion that there was collusion, when carrying out transactions in the EPF.

The witness said that he had told Mr. Saman Kumara that he should not use a mobile phone because Dealers should use direct lines in the office, as it was deemed the established ethical practice. The witness said that he goes out of office frequently on official matters and his subordinates had informed him that Mr. Saman Kumara used his mobile phone and that they were unable to correct him.

In reply to questions from the Commission the witness said that he could not shift Mr. Saman Kumara because the Governor had appointed him and also because the witness was aware of the plight of those who went against the Governor. The witness stated that the Governor is a very powerful person in the CBSL.

Mr. Jayalath said that Mr. Saman Kumara at Review Meetings, would say “*I spoke to the Governor on various issues*” and from that he had realized that Mr. Saman Kumara had a close relationship with the Governor and that he was briefing the Governor.

- 8] The witness referred to discussions concerning the selling of JKH shares, and that the Governor had come to know about it and asked him why it was necessary to obtain the approval of the Investment Committee before selling the JKH shares. Mr. Saman Kumara had stated that he discussed it with the

Governor. The witness said that his understanding was that Mr. Saman Kumara was meeting the Governor regularly. The witness stated that he would have shifted Mr. Saman Kumara from the Front Office if he was allowed to independently take a decision.

- 9] Mr. Jayalath stated that the authorized limit for Mr. Saman Kumara to enter into deals for a day was Rs.500 million, and that he generally exceeded the limit. He stated that Mr. Saman Kumara would ask the witness for approval over the phone and the witness would advise him to go by market rates. The deals executed were entered into manually and then the Deal tickets are raised, entered in to the system and sent back to the Back Office for verification and settlement. Daily reports on all deals are sent to the Governor on the same day or the following day. He stated that they could not check Secondary Market prices as they were not available and for that they would depend on the Financial Times the following day, PDD quotes and the Yield Curve prepared by the EPF.

In reply to questions from the Commission, the witness stated that he prepared the investigation reports without a detailed analysis of the SSSS/RTGS transactions.

The witness was referred to Investment Trading Guidelines, according to which, Front Office in consultation with the Middle Office should recommend the Yield and the amount of Treasury Bonds to be offered at auctions conducted by EPF. He said that except for Mr. Saman Kumara, others in the Front Office and the Middle Office were new and inexperienced officers and that he had no other option, but to depend on Mr. Saman Kumara.

In reply to questions from the Commission, the witness stated that about 12 officers were transferred out of the EPF Department and new officers had been transferred in. Two of these new officers had come to the Front Office. The witness emphasized that in November 2015, Mr. Saman Kumara had been operating with two new officers. He stated that in the Middle Office there were about 8 officers including a new officer. The witness agreed that there were several transactions in November 2015.

Mr. Harsha Fernando, Attorney-at-Law, Counsel appearing for Mr. Samarasiri Deputy Governor, questioned the witness.

The witness said that the Assistant Governor and Deputy Governor in Charge of the EPF was Ms. Mampitiya and Mr. Ananda Silva respectively. He said that he was not aware of the Public Debt Department being understaffed. Mrs. Dilini Udugamakorale and Mr. Padumanapan were transferred out and then

Mrs. Dilini Udugamakorale was transferred back after sometime. The witness denied that he was not aware that the PDD wanted Mr. Padumanapan.

- 10] Ms. Romali Tudawe, Attorney-at-Law, Counsel appearing for Perpetual Treasuries Ltd examined the witness.

Mr. Jayalath was requested to explain the nature of his qualifications where he stated that he had a B.Com from the University of Kelaniya, Master's from the University of Sri Jayawardenapura, Master's in Economics from the University of Kansas, USA. He is also a Chartered Accountant.

The witness admitted that he has not dealt with Government Securities in local bonds, but that he knows how the deals are negotiated between parties and accepted. He said that there weren't many transactions before October 2015, but after October 2015 transactions had increased. The witness replied to questions raised on Yield to Maturity, discounted cash flow, percentages of Investment and Trading portfolio etc.

He said that collusion means trying to maneuver the market or manipulate the market or conceal information. The word manipulative means change the market prices, change the perception, change the way we believe it. He said that prices should be negotiated directly, but that pre-negotiation has taken place.

Mr. Nihal Fernando, PC commenced his examination of the witness. Mr. Jayalath accepted that switching is not illegal, but that it is unethical for officers to do that. He said that he has not heard of any negotiation at that stage except that previous day's price was accepted on a particular day.

He was referred to the Treasury Bond Auction held on 27<sup>th</sup> February 2015, where he said that he stands by the decision of dealers about the bid prices quoted and the amounts. The witness was shown the sale of Treasury Bonds by PTL to EPF and agreed that the EPF deals for delivery in a weeks' time or two weeks' time.

The witness places no reliance on market rates, as they were pre-arranged deals based on markets rates of the previous day, which was not a reflection of the real prices.

- 11] In reply to a suggestion from the Commission, the witness accepted that the market rates have been annihilated and distorted. Mr. Jayalath stated that Mr. Udayaseelan was in the Front Office and he didn't look at Deal Tickets because they indicated the prices at which they have been purchased and not the market price. The witness's position was that it was the duty of the Regulator to check the price. The Counsel appearing on behalf of Perpetual

Treasuries Ltd stated that the witness's statement that the prices were manipulated and there was collusion is utterly unfair and irrelevant. It was suggested that he was not aware as to what was going on and had merely signed the statements and send it across and the witness disagreed.

The witness said that he has to rely on Dealers for the market price and if they deceive him, he has no way to ascertain the market price as the dealer is more powerful.

- 12] In reply to questions from the Commission, the witness said that with the knowledge he has now, he will be able to check the price movements in the Bloomberg Screen and decide whether there was manipulation or not. He said that EPF generally asked brokers to buy Treasury Bonds, and that they informed the likely rate and amount to the broker, where he would in turn negotiate with the seller.

After hearing the Voice Recordings, the witness said that he cannot rely on brokers or any other party.

The witness, by referring to Guidelines for Investment in Treasury Bonds and Bills, said that the Delegation of Authority gives limit for per day transactions.

In reply to questions from the Commission, Mr. Jayalath said that Mr. Saman Kumara didn't have a limit to deal in trading and that there was no limit for the Investment portfolio for Mr. Saman Kumara.

The witness stated that the EPF has dealt with transactions where the value was over Rs. 500 Million, with the requisite approvals.

He said that he gave evidence at COPE under the Chairmanship of Hon. D.E.W. Gunasakera, but that they put questions to the people who had done the deals rather than to him as had operated at the Supervisory level.

The witness said that after the stoppage of Private Placements, EPF was investing in Secondary Markets and the he accepted that this was the reason for EPF's increased participation in the Secondary Market which helped infuse liquidity.

- 13] The witness was referred to his Report titled, "Examination of Phenomenal Profits made by Perpetual Treasuries Ltd." which was prepared by him after an e-mail sent by Mr. C.P.R. Perera, an Appointed Member of the Monetary Board, which was given to him by Mr. Mahendran. The witness has stated in his report that the fluctuation in rates within a day from 50 to 100 basic points was

exceptional and that he had suspicions of those deals as those fluctuations were unlike what he had seen before.

Financial highlights of EPF for the years 2014, 2015 and 2016 which were available in the EPF Website, were marked, “**PTL34A**”, “**PTL34B**” and “**PTL34C**”.

The increase from 2014 to 2016 was from Rs.163.83 Billion to Rs.171.855 Billion and then to Rs.193.071 Billion in 2016.

- 14] Mr. Chanaka de Silva, Attorney-at-Law, Counsel appearing for Mr. Mahendran examined the witness. He asked the witness about the officers in the EPF Department, the Divisions and the period they served, the officers who served in the Front Office, Middle Office and Back Office.

The witness was referred to decisions taken to install CCTV Cameras which was agreed to by the Governor and that the Facilities Management Department, which was handling this task was obtaining quotations even in October 2015.

The witness after becoming Assistant Governor in April 2016 had tried to get the Voice Recording system but had failed.

The witness was referred to the Treasury Bond auction held on 27<sup>th</sup> February 2015. In the morning on that day there had been a discussion about the availability of funds in the EPF Department. They had had around Rs. 3-4 billion, and he stated that the Committee would have met and decided. Mr. Jayalath was shown the Bid Sheet of the Auction on 27<sup>th</sup> February 2015, and he accepted that EPF has placed 3 bids – i.e Bid Nos. 7, 11 and 15 and these bids were placed in accordance with the decisions taken at the meeting, which he considers rational decision. He had been relying on market rates but after hearing the Voice Recordings, he stated that he is now apprehensive.

- 15] The witness accepted that he was called by Mr. Samarasiri, who was the Senior Deputy Governor, when Mr. Mahendran was on leave and discussed about the transfers of Mr. Padumanapan and Mrs. Dilini Udugamakorala. He recalls having pleaded with him not to take them out, but they had been sent to the PDD for about 03 months. He had been requesting that skilled officers be sent to EPF and that Mr. Saman Kumara be transferred to the EPF Department i.e. on June 08<sup>th</sup>. He had come to know that Mr. Saman Kumara was working in the EPF Department before. He had not been aware of Mr. Saman Kumara’s qualifications and experience. The witness stated that he was upset over the transfers of Mr. Padumanapan and Mrs. Dilini Udugamakorala.

The witness said that in February 2015 some Assistant Governors, Directors and Superintendents, about 30 in number had a meeting at the CBSL to discuss their grievances and Mr. Mahendran had suddenly walked in to the meeting and inquired about it and asked whether it was an approved meeting. They had thought that approval is not necessary as they were the senior most officers of the Bank and the witness stated that he was not aware of the open-door policy of Mr. Mahendran.

The witness said that, after the meeting, the function of allocating conference rooms was transferred to the Governor's office.

- 16] Mr. Jayalath said that the total EPF Fund was around Rs. 1.5 Trillion and that there was an Investment Portfolio of 92% in Government Securities. In 2015 the EPF Fund was Rs. 1604 Billion, of which an Investment Portfolio of 92% is around Rs. 1476 Billion and 0.8% is around Rs. 128 Billion in the Trading Portfolio.

He said that the Middle Office gave their recommendations at the Morning Review Meeting, but that the Front Office decided on the rate, volume etc. and that individual transactions cannot be made at a loss. The approval of the Investment Committee is required to sell at a loss. EPF had made a capital gain of Rs. 4082 Million in 2014. In 2015, a new scheme was introduced where 30% of the pre-retirement fund could be withdrawn for the purpose of Housing loans. This scheme was started from 01<sup>st</sup> July 2015 and about Rs 41 Billion had been paid to 70,000 beneficiaries. There was a decrease in the volume of the fund and that contribution had also decreased during this period. At this juncture the witness accepted Mr. Mahendran's direction to increase the Secondary Market transactions to generate higher profit to the Fund. Mr. Mahendran had further said that they are not doing enough transactions and that therefore he required the Daily Reports.

The witness stated that he was not prepared to take responsibility for the daily reports submitted and said that those were prepared by the officers of the EPF and he didn't check individual items.

Mr. Jayalath accepted that Internal Operations Department was sending daily reports to the Governor, and that therefore Mr. Mahendran would know the level of reserve the country has at the end of each day.

The Commission was surprised to observe that the information in Daily Reports didn't go up the line earlier.

The witness accepted that Mr. Mahendran established the Legal and Compliance Department, Risk Management Department and some Regional Offices, but observed that these functions were performed earlier by the respective Departments.



Mr. Jayalath said that every month they send a table of transactions done during a month for ratification, at the Monetary Board Meeting and he was shown such documents from December 2014 to May 2016 and accepted that all sales of Treasury Bonds indicated in the documents had actually resulted in capital gains. The Counsel pointed out that there are lot of discrepancies in the Daily Reports and the Report submitted to the Monetary Board and in response, the witness gave several reasons.

- 17] The Counsel referred the witness to several matters concerning the transfer of Mr. Saman Kumara, his assignment in the Risk Management Department and then in the Front Office; the complaints received about Mr. Saman Kumara, reasons for not reporting to the Governor and the report prepared by the witness.

He denied the allegation that he has not emailed his investigative report to the Governor and stated that he had had discussions with the Assistant Governor, before it was handed over.

In October 2016, after the appointment of the new Governor, Mr. C.P.R. Perera had inquired about the report the witness had submitted.

The witness was appointed an Assistant Governor in April 2016 and he accepted that he had not taken any follow up action as it is up to the Governor. He had had suspicions and given it to the Regulator to be followed up.

The EPF and Non-Bank Supervision Departments had been under the purview of the witness functioning as Assistant Governor, but he states that he could not take action without the Governor's directive.

Mr. Mahendran had left Office in June 2016 and the witness said that he could not do anything about Mr. Saman Kumara until October 2016 as it was not under his purview.

The witness accepted that he has been issued a letter calling for his answers on four or five issues and that he has replied. He had been asked to explain about the Violation of Investment Trading Guidelines.

The witness said that he has limits up to Rs.10 Billion under Investment Trading Guidelines and that whenever Mr. Saman Kumara exceeded his Rs. 500 Million limit, he obtained approval verbally.

- 18] Mr. Harshana Nanayakkara, Counsel appearing for Mr. Saman Kumara examined the witness.

The witness said that he had some concerns about Mr. Saman Kumara and some reservations about others. He has requested his Deputies to observe Mr. Saman Kumara. In his investigation, he stated that he could not find evidence of any wrongdoing, but that he had suspicions.

He said that Mr. Saman Kumara was placed in the Front Office at the request of the Governor. He denied the suggestions made by the Counsel that his suspicion was based on rumours and not on valid evidence.

He accepted that Mr. Saman Kumara was involved in Trade Union work. He also denied the suggestion put to him that Mr. Saman Kumara never discussed about any official matters whatsoever with the Governor. Mr. Jayalath said that he suspected Mr. Saman Kumara after listening to voice recordings, after what people said about transactions, the emails and rumours. The witness said that he had trade experience in Internal Markets and denied what the Counsel suggested about him being ignorant and incompetent.

Mr. Jayalath said that when he gave approval for transactions exceeding Rs. 500 Million done by Mr. Saman Kumara, he was satisfied. He had had no way to observe market prices at that time and had depended on the Front Office.

In reply to questions from the Counsel, the witness said that all Deal Tickets at the end of each day were referred to him for information. If the value is above Rs. 3 Billion, it goes to him for approval and he stated that it was checked by his subordinates.

- 19] The witness was referred to the Monthly Summary of EPF transactions, marked “AM47”. The witness stated that the main document is the Board Paper together with its annexures, which are sent to the Monetary Board for ratification, in terms of Investment Trading Guidelines.

The witness explained the reason for discrepancies latent in the documents when he was further questioned on the matter and stated that they don't keep a copy of the report which is submitted to the Governor on a day to day basis.

In reply to questions from the Deputy Solicitor General, the witness said that he learnt that EPF has voice recordings and that all Investment Committee transactions are recorded. The witness said that Mr. Saman Kumara who was in the Front Office was not controllable as he has not listened to Mr. Jayalath's subordinates, nor had he obeyed his directions concerning the usage of the mobile phone.

Mr. Jayalath's Report on the EPF appears to have not been submitted to the Monetary Board, and he stated that if it had been submitted to the Monetary Board as soon as it was handed over, the Monetary Board would not have asked him about the Report in October 2016.

**Section 5.44**

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**Hon. Ravi Karunanayake, MP**

Mr. Ravi Karunanayake was the Minister in charge of Foreign Affairs at the time he gave evidence. He held the post of the Minister of Finance from January 2015 to 20<sup>th</sup> May 2017, a period which falls within the mandated period of the Commission of Inquiry. The team from the Hon. Attorney General's Department assisting the Commission of Inquiry made an application to summon Mr. Karunanayake to give evidence, considering the evidence that had already been led before the Commission. There was evidence as to the manner in which the duties cast upon the Minister in charge of Finance were discharged in terms of Section 4 of the Registered Stock and Securities Ordinance.

In addition, the evidence of Ms. Vinodini also revealed that Mr. Arjuna Aloysius [or a Company he controls] is said to have paid the rent for the apartment at Monarch Residencies, that was occupied by Mr. Karunanayake and his family. Accordingly, the Commission allowed the aforesaid application and decided to record the evidence of Mr. Karunanayake.

The relevant evidence of this witness is:

- 1] Mr. Karunanayake stated that he is a family man, living with his wife and three daughters at apartment No.5 [PH2] in Monarch Residencies in Kollupitiya. They have come into occupation at this apartment in February 2016. At that point of time, the owner of this apartment was Ms. Vinodini. However, Mr. Karunanayake said that he did not know this apartment belonged to her till they came into occupation, even though Ms. Vinodini's family and Mr. Karunanayake's family were known to each other for many years.
- 2] According to Mr. Karunanayake, all the dealings as to the renting out of this apartment were handled by his wife, Mela. He further said that he was not personally aware as to the manner in which the negotiations had taken place to get the house on rent. When he it was put to him that this was very unusual behaviour and not the way a reasonable person would act, he said that due to his official commitments all his personal matters were attended to by his family members.
- 3] Mr. Karunanayake further said that this apartment has only three rooms and the floor area of one room does not exceed 700 sq.ft. Accordingly, he denied

that it has a floor area of 4000 sq.ft. However, Ms. Vinodini, being the owner, in her evidence said that it has a floor area of 4000.sq.ft. She supported this position by submitting the plan and the deeds connected to the apartment.

- 4] Mr. Karunanayake stated that he had been associating Mr. Arjun Aloysius but not his family members. He said that they shared a normal relationship. He further said that he has no personal or business relationship with him.
- 5] Mr. Karunanayake was shown several text messages extracted from the inbox of Mr. Arjun Aloysius's mobile phone. One such message originated from 94767058862 and it is to a person named Neil. That message was addressed to "Dear Honorable Minister Ravi". Mr. Karunanayake said that he does not understand this SMS and it is for the first time that he saw such a message. There were several such messages that were shown to Mr. Karunanayake and his position was that he has no knowledge of such messages. In some messages, the letters "AM", "RK" were also found. He further said that all those messages do not make any sense to him. He said, he does not know that he is being called "RK" by others but he knows that he is commonly known as "Ravi". Mr. Karunanayake stated that he had met Mr. Arjun Aloysius at family functions but had never carried out business transactions with him. At this stage, it is to be noted that in the evidence of Sub Inspector Yasanka Jayasinghe that was recorded on 16<sup>th</sup> November 2017, he states that, Mr. Arjun Aloysius had over 300 telephone conversations with Mr. Karunanayake and over 300 conversations with Mr. Karunanayake's wife during the period covered by the Report submitted by Sub Inspector Jayasinghe.
- 6] Mr. Karunanayake said that he held office as a Director of the Companies, Global Transportation and Logistics (Pvt) Ltd, Global Star (Pvt) Ltd, Global Travels (Pvt) Ltd, Global Transport (Pvt) Ltd, Vacuum Packing (Pvt) Ltd and other Companies prior to 2015 January. Since he assumed duties as a Minister, he has resigned from the Directorship of those Companies. However, those Companies belong to the Karunanayake Family. Now, his wife is the Chairperson of those companies. In the company Global Transportation and Logistic Pvt Ltd, the directors are his wife and the daughter Onella and another gentleman by the name of Mr. Lakshmi Kanthan who is a financial consultant according to Mr. Karunanayake. They were the members of that company from the year 2000. Mr. Lakshmi Kanthan is a foreign national born in India but domiciled in the UK. According to Mr. Karunanayake, this person is a moneyed man qualified in Accountancy and had worked for international companies. These questions were asked in light of the evidence given by a witness, Mr. Sinniah, who is the accountant of the company of which Mr. Kanthan is a Director. Evidence of Mr. Sinniah was that Mr. Lakshmi Kanthan had come to Sri Lanka carrying approximately Rs.70 million in cash on two occasions.

- 7] Mr. Karunanayake was shown a document marked “**AM22**”. It is a document produced at this inquiry on behalf of Mr. Arjuna Mahendran, former Governor of the Central Bank. This letter is signed by Mr. Karunanayake but significantly, it is undated. He said that this letter was issued by him on the request of Mr. Mahendran for the purpose of producing it to the second COPE meeting.
- 8] Mr. Karunanayake said that it was written in the range of May, June 2016. He said that it is an oversight, not to have put the date on it. The evidence of Mr. Karunanayake was that this letter was issued many months after February 2015 and it was to confirm the decisions made at the meeting held at the Central Bank on 26<sup>th</sup> February 2015 where Minister Kabeer Hashim and advisor to the Prime Minister Mr. Malik Samarawickrema, were also present.
- 9] Having considered the decision of the aforesaid meeting on 26<sup>th</sup> February 2015 and the contents of the letter marked “**AM22**”; Mr. Karunanayake said that the requirement of funds for the Government was Rs.75 Billion in the month of February 2015. However, he said that he was not aware of the amount that was to be collected at the Auction held on the following day. Mr. Dappula De Livera, P.C. questioned the witness extensively as to the contents and the manner in which the document “**AM22**” was preserved and its present condition. He has also said that according to the Treasury, the fund requirement for the government on 01<sup>st</sup> March 2015 was Rs.13.5 Billion.
- 10] While giving evidence Mr. Karunanayake marked two documents as “**Ravi 1**” and “**Ravi 2**”, which were provided by the Secretary to the Treasury. The document marked “**Ravi 1**” is titled, “Outstanding Liabilities as at 21<sup>st</sup> December 2014 and Payments and Balance in 2017”. However, he admitted that this document was prepared two weeks prior to the date on which he gave evidence and it is only a part of another main document.
- 11] Mr. Karunanayake said that his permanent residence at Rajamalwatta Road in Battaramulla needed to be renovated and that was the reason for his family to change residence to an apartment at Monarch Residencies in Kollupitiya. He then said that he did not visit the said apartment at Monarch Residencies prior to his family occupying the apartment. He also said that he did not speak to the owner Ms. Vinodini before they shifted there. His position was that he subsequently became aware that this house was leased out by a company named Walt and Row Associates (Pvt) Ltd from Ms. Vinodini. He also said that the apartment was purchased by the company owned by the Karunanayake family at the expiration of the lease. According to the deed of transfer by which the apartment was purchased by Global Transportation and Logistics (Pvt) Ltd, it is evident that it is an amalgamation of two units and those two units were allocated the numbers Y/F5/U3 and Y/F5/Y2. According to the said deed of

transfer, this amalgamated premise has over 4000 sq.ft. However, Mr. Karunanayake strongly disputed the said extent of the premises.

12] Mr. Karunanayake said that he had no knowledge of Mr. Arjun Aloysius discussing with Ms. M.A. Vinodini to get this apartment leased out. He also said that he did not know that Mr. Arjun Aloysius and his [Arjun's] father have been functioning as Directors of the company, Walt and Row Associates (Pvt) Ltd, which had leased out the apartment that was occupied by the Karunanayake family. He denied the fact that Walt and Row Associates (Pvt) Ltd was paying Rs. 1.4 million a month as the rental for this apartment at Monarch Residencies. However, in answer to a question, Mr. Karunanayake said that his family had paid for it and it was reimbursing Walt and Row Associates (Pvt) Ltd. He said that this was told to him by his family members. Accordingly, he denied that the payment of the rental of the apartment was made by Walt and Row Associates (Pvt) Ltd, of which Mr. Arjun Aloysius was a Director. He also has said that after the lease expired, this apartment was bought by Global Transportation and Logistics (Pvt) Ltd, which is a Company where the Karunanayake family owns shares, having paid Rs.165 million. However, he said that the purchase of the apartment was not within his knowledge at the time it was purchased, but that he became aware of it subsequently when it came to light in the media.

13] Mr. Karunanayake was also questioned as to the duty cast upon the Minister of Finance in terms of Section 4 of the Registered Stock and Securities Ordinance. Admittedly, the Gazette Notification issued under this provision of law had been signed by his predecessor even for the period Mr. Ravi Karunanayake was functioning as the Minister of Finance. However, he explained that the procedure in publishing the Gazette had been changed since the year 2012 and his answer in this regard is as follows:

*“No, Lordship no, that’s wrong. Lordship, can I get that corrected? From time immemorial, it was going on the basis that the Minister of Finance signs the gazette. But as of 2012, there was a change of procedure. The then Minister of Finance who happened to be the President, through the Secretary, with the Central Bank, they got this particular process that the advance gazette is taken on the 1<sup>st</sup> of January. That prevailed until 4 years, when it got highlighted with an issue that had come up that there was no signature because President Mahinda Rajapaksha’s signature was there as opposed to mine. Then only this confusion came about. Then when we looked at the central Bank office, I am not too sure what the position was, he had arrogated powers of the Ministry of Finance and signed and sent the gazette off. Then only it happened that President Mahinda Rajapaksha’s name came in as opposed to mine. As at 1<sup>st</sup> January he was the Finance Minister, I took office 08<sup>th</sup> of January. Likewise this was corrected thereafter in 2016 November by present Governor Mr. Indrajith Coomaraswamy. So that is the basis where the Finance Minister’s signature*



*didn't come. Then about two months ago, the letter was sent by the Governor requesting me whether I could sign the 2017 one. And then, I requested a letter for the signature. I put this relevancy in Section 4-(1),(2),(3),(4) after I ceased to be the Finance Minister. This was at the behest of the Governor of the Central Bank with a written document."*

He gave this answer at the outset of his evidence. Despite the fact that he has already clarified the manner in which the Gazette Notification was published in terms of the Registered Stock and Securities Ordinance, Mr. Dappula De Livera, P.C. questioned him at length on this issue disregarding even the directions given by the members of the Commission. His questioning on this issue did not succeed in getting any new material for the purpose of writing the Report by the Commission. Such questioning by him was a waste of time.

**Section 5.45 - Ms. D.L. Rohini**

Ms. D.L. Rohini is a Senior Assistant Superintendent attached to the EPF. From September 2013 onwards, she has functioned as the Head of the Back Office of the Fund Management Division of the EPF.

The Evidence-in-Chief of this witness was placed before the Commission of Inquiry by way of an affidavit, which was marked "**C212**".

The relevant evidenced of this witness is:

- 1] As the Head of the Back Office of the Fund Management Division of the EPF, Ms. Rohini is responsible for the preparation of the Daily Cash Flow Statement of the EPF and for submitting the Bids which EPF has decided to place at Primary Auctions of Treasury Bonds and REPO Auctions and also for the Settlement of EPF's transactions on the RTGS.
- 2] The EPF received approximately Rs. 11 billion each month from Members' Contributions and Employer's Contributions only. The Refund Payments made by the EPF each month to members, amount to approximately Rs. 10 billion each month and about Rs. 500 million on each working day.
- 3] Thus, the EPF has a monthly surplus of Funds of approximately Rs. 1 Billion, which accrues each month from Members' Contributions and Employer's Contributions only.
- 4] In addition, the EPF receives Revenue each month by way of payments of interest on Investments such as Treasury Bonds and Bills and other Government Securities each month and also by way of Dividends from other Equity Investments. Further, the EPF receives the Sale Proceeds of any investments which are sold.

- 5] The Administration Expenses of the EPF each month amount to about Rs. 0.125 billion.
- 6] Thus, the EPF has a very substantial amount of funds which become available for Investment, each month.
- 7] Ms. Rohini stated that, she was *“requested by the officers of the Attorney General’s Department assisting the Commission to provide specific information in a tabulated form with regard to the 7 selected Treasury Bond ISINs set out in a document previously marked as C174 and produced before the Commission.”*
- 8] In pursuance of this request, Ms. Rohini produced, marked **“C212A”** to **“C212C”**, documents prepared by her, using Data extracted from the Accounts, Books and Records of the EPF, which set out the *“minimum excess funds that were available in the EPF’s RTGS account for purposes of RTGS account for purposes of investment, on the settlement dates of the Primary Auctions when Treasury Bonds bearing 7 identified ISINs had been offered.”* [these 7 ISINs are the ISINs which are the referred to in the document marked **“C174”**].
- 9] Ms. Rohini said that, the sum identified as the *“minimum excess funds”* available for Investment on each such day is net of all Expenses of the EPF including Funds that may be required on that day for the settlement of Bids placed at Primary Auctions of Treasury Bonds and Treasury Bills, if such Bids were accepted.
- 10] Ms. Rohini referred to the document marked **“C176”** and said that, there had been several instances when the EPF had sold Treasury Bonds from the “Available for Sale” Portfolio of the EPF and then, later, purchased, similar Treasury Bonds, at lower Yield Rates, to be held in the “Held to Maturity” Portfolio of the EPF.
- 11] Ms. Rohini also produced, marked **“C212D”**, a document prepared by her which sets out the Yield Rates at which the EPF placed its Bids at Primary Auctions of Treasury Bonds.

**Section 5.46** - **Mr. M.A.D.K. Palisena**

Mr. Palisena was employed by Perpetual Treasuries Ltd as Chief Dealer in November 2013. At that time, Mr. Arjun Aloysius was the Chief Executive Officer of Perpetual Treasuries Ltd. When Mr. Aloysius resigned from the post of Chief Executive Officer and Director in January 2015, Mr. Palisena was appointed as the Chief Executive Officer of Perpetual Treasuries Ltd. on 16<sup>th</sup> January 2015.

His evidence makes it very clear that Mr. Palisena was the Chief Executive who ran the operations of Perpetual Treasuries Ltd, on a day to day basis, during the period of our Mandate. It is equally clear, that, when doing so, Mr. Palisena was in close communication with Mr. Aloysius and that Mr. Aloysius issued instructions to Perpetual Treasuries Ltd with regard to its operations and transaction.

Before proceeding to set out a summary of the relevant evidence given by Mr. Palisena, we should state there that, it was known and undisputed that Perpetual Treasuries Ltd maintained a Telephone Call Recording Facility which recorded all incoming and outgoing Telephone Conversations to and from Perpetual Treasuries Ltd.

In these circumstances, the Commission of Inquiry directed Perpetual Treasuries Ltd to furnish a copy of all the Recordings of Telephone Conversations relevant to the period of our Mandate. Perpetual Treasuries Ltd submitted Recordings of approximately 240,000 Telephone Conversations.

However, when these Recordings were examined, it was found that the Recordings did not contain usual details such as the Caller ID and date and time of the Telephone Calls.

Therefore, the learned Senior Additional Solicitor General moved for an adjournment of sittings to ascertain the reason for this omission. In those circumstances the hearings of the Commission of Inquiry were adjourned.

In this connection, the Commission of Inquiry also directed Mr. Palisena to explain why the Recordings submitted by Perpetual Treasuries Ltd did not contain usual details such as the Caller ID and date and time of the Telephone Calls.

In response, Mr. Palisena submitted an Affidavit dated 18<sup>th</sup> August 2017, which was e marked “**C213**”.

In this Affidavit, Mr. Palisena has, *inter alia*, stated that, based on information given to him by Mr. Sachith Devathanthri, the Information Technology Executive of Perpetual Treasuries Ltd:

- “c. That in relation to the third question furnished by the Commission, the Voice Recording System does indicate whether the call is an incoming call or an outgoing call, as outgoing calls are shown in the system as outgoing calls and incoming calls are shown in the system as missed calls.*
  
- d. That in relation to the fourth question furnished by the Commission, the Voice Recording System does not indicate the telephone number that was dialed or the telephone number of the caller. I state further that after the matter was raised before the Commission, I personally inspected the system in the morning of the **16<sup>th</sup> of August 2017** for the first time after I assumed duties as CEO and*

*realized that the system does not indicate the number that is dialed or the incoming number.*

- e. That in relation to the fifth question furnished by the Commission, the time of call is not indicated in the Voice Recording System and all calls are reflected there as serial numbers only.*
- f. That in relation to the sixth question furnished by the Commission, I do not know whether there is any indication of the dates in the call record in addition to the dates mentioned in the folder name contained in the CD.*
- g. That in relation to the seventh question furnished by the Commission, the Voice Recording System can provide some of the details requested such as recordings of calls and whether the call is an outgoing or an incoming call but other details such as caller numbers, time of call and dates in the call record cannot be provided by the aforementioned system.*
- h. That in relation to the eighth question furnished by the Commission, Perpetual Treasuries Ltd has provided the Commission will all of the voice recordings in their possession.”.*

After Mr. Palisena affirmed to this Affidavit, cogent evidence was placed before this Commission, by way of the evidence of Mr. Sachith Devathanthri, the Information Technology Executive, Mr. Nuwan Salgado, the present Chief Dealer of Perpetual Treasuries Ltd and Mr. Y.N.R. Dharamarathne, the Chief Engineer of Metropolitan Communications (Pvt) Ltd, that in fact the Voice Recording System used by Perpetual Treasuries Ltd automatically recorded details of the Caller ID and the date and time of Telephone Calls, but that, Perpetual Treasuries Ltd had, on the instructions of Mr. Palisena had tampered with the original Recordings and deleted several Recordings of Telephone Conversations and deleted the details of the Caller ID and the date and time of the Telephone Calls Further, the Commission of Inquiry was able to obtain the original Recordings, which were furnished to this Commission by Mr. Nuwan Salgado, the present Chief Dealer of Perpetual Treasuries Ltd. These original Recordings conclusively establish that, the original Recordings contained these details and that, on the instruction given by Mr. Palisena, Mr. Devathanthri had deleted these details in the Recordings submitted to the Commission of Inquiry.

In these circumstances, the inference is that, Mr. Palisena knowingly lied when he made the aforesaid statements in his Affidavit marked “**C213**”.

The Commission of Inquiry considers this to be a pertinent consideration when assessing the credibility of the evidence given by Mr. Palisena.

The relevant evidence of this witness is:

- 1] At the commencement of Mr. Palisena’s evidence Mr. Nihal Fernando, PC, summarized the evidence he intended to lead as follows.

*“I just want to inform the Commission the manner in which I will be leading the evidence the sequence and all that. So the way I have structured is that it will take the least possible time. That’s the reason why I have done it this way. Number one will be about the primary dealer Perpetual Treasuries Limited. Number two will be about the Bond Market. Market environment in 2014, how the secondary market works, technical aspects of the market, deciding prices/ value of a bond. Value of the bonds. Functions of a broker. Number three will be the controversial bond issues 27<sup>th</sup> February 2015, 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016. Number three will be the disposals. Only sales, PTL Bills how they bill the portfolio, and sells the portfolio. We will not be going into according to each ISIN the reason is each transaction if we take one by one, we will have to get the market conditions over and over again several times. So we will deal with the market conditions in a chronological order with charts and explanations which can be referred to when you are referring to this transaction. That’s the reason why I am doing the market conditions separately so that it will be easier once and for all it is done those marked documents can be referred to immediately on each transaction. We will go chronologically according to the sale periods because otherwise we will have to repeat answers when explaining market environment. We will not be going through the Capital Gains but will go through each and every sales on each set. Next item will be the ancillary items like ILF, PABC, and EPF and probably SLIC also might come in. Then number four will be the gains. We will explain, endeavor to explain to the best of our ability how we had matched the gains the total profit to tally with our accounts. Because according to us the cost of sales is different to what the Central Bank has produced. So we will be producing gains, capital gains in a different way explaining the cost of sales the way we have done it. Number five will be lastly why the controversial F4 and L4 prepared by Mr. Wasantha Alwis cannot be accepted. Those are....”.*

- 2] Mr. Palisena said that after completing his Advanced Level Examination, he had joined the services of First Capital Money Brokers in June 2003 and had thereafter, left that Company in May 2006 to join Bartleet, Mecklai & Roy Limited. Mr. Palisena had left Bartleet, Mecklai & Roy Limited in March 2010 and had joined Acuity Securities Ltd, where he had served as the Chief Dealer from March 2010 to November 2013. In November 2013, he had been invited to join the services of Perpetual Treasuries Ltd. Mr. Palisena had obtained a Diploma in Treasury and Fund Management and is reading for a Master’s in Business Administration from the University of Wales.
  
- 3] In response to a Question from the Commission of Inquiry, Mr. Palisena said that the Business Opportunities identified in the Business Plan made by Perpetual Treasuries Ltd at the time Perpetual Treasuries Ltd submitted an

Application for a Primary Dealer License, in October 2012, referred to the techniques used by Perpetual Asset Management (Pvt) Ltd in the Stock Market.

In this connection when the Commission of Inquiry asked Mr. Palisena, *“I asked you what do you mean by equity secondary market transactions?”*, Mr. Palisena replied, *“Equity secondary market transactions done by Perpetual Asset Management”*.

- 4] When the Commission of Inquiry asked Mr. Palisena further details with regard to which Companies of the Perpetual Group and which persons were involved in the Colombo Stock Exchange prior to 2012, Mr. Palisena stated that Perpetual Asset Management (Pvt) Ltd, Perpetual Capital (Pvt) Ltd, Mr. Arjun Aloysius and Mr. Suren Muthurajah were involved. We note that Mr. Suren Muthurajah was also a Director of Perpetual Treasuries Ltd.
- 5] In response to a question from the Commission of Inquiry, Mr. Palisena said that, Mr. Kavin Karunamoorthy who was first employed at First Capital Money Brokers when Mr. Palisena worked there and was subsequently employed at DFCC Bank and is presently employed at the National Savings Bank, had been the best man at Mr. Palisena’s wedding.
- 6] Mr. Palisena stated that Perpetual Treasuries Ltd considered trading on long tenor Treasury Bonds as its *“niche”* in the Treasury Bond market. He went on to state that since the Yield Curve on long Tenor Treasury Bonds usually has a significant difference between the short end and the long end of the Yield Curve, trading in Treasury Bonds with a long Tenor carries a higher risk with a potential for a higher return or a loss. In this connection Mr. Palisena said, *“So if you trade longer tenure bonds, your return is higher as well as your risk of course.”*
- 7] Mr. Palisena, describing PTL’s approach to trading in the Secondary Market, stated that Perpetual Treasuries Ltd looked to actively trade in the Secondary Market and to be a *“price maker”* and not a *“price taker”* in respect of Treasury Bonds with long Tenors. In this connection we reproduce the relevant evidence given by Mr. Palisena in response to Questions by Mr. Nihal Fernando, PC.

*“Q: Witness, this document PTL 41, will show the pattern of trading and how aggressive or how slow you were had been in the market ?*

*A: That’s correct sir.*

*Q: Is it correct to say that with regard to longer tenure bonds over seven years even during that period, you became a price maker for long tenure bonds by actively quoting on long term maturities ?*



A: *There are two types of traders in the market My Lord, price takers and price makers.*

Q: *Slowly, price takers and price makers ?*

A: *That's correct.*

Q: *What is the difference between the two ? Please explain. In your process of creating liquidity in the long term long tenure market long term long tenure market what do you call a price maker for the long tenure bonds ?*

A: *A person who quotes two way, that bids and a offer for that maturity.*

Q: *Just explain the difference to the Honourable Commission what you... the meaning of price taker and price maker ?*

A: *Price maker is a person who will quote two way for the maturity requested, Price taker is someone who is looking for a price or asking for a certain price for maturity. In the market there are less price makers and more price takers as you know My Lord.*

Q: *Witness, longer tenure bond are attracted to what kind of investors ?*

A: *Traders and most of the captive sources My Lord.*

Q: *Captive sources such as ?*

A: *Can be pension funds, can be insurance companies,*

Q: *Can be life fund ?*

A: *Can be life insurance funds,*

Q: *All the insurance companies, life funds ?*

A: *Most of the captive sources sir.*

Q: *They go for long tenure bonds ?*

A: *That's right.*

Q: *EPF Employees' Provident Fund ?*

A: Correct

Q: They go for long tenure bonds ?

A: Yes.

Q: Correct ?

A: Employee Trust Funds ?

Q: Yeah. And also probably foreign pension funds.

A: It all depends on their risk appetite and the investment morale ?

Q: Risk appetite and the investment objective ?

A: Investment objective, ok.”.

- 8] In the same vein, Mr. Palisena went on to state, *“There are three types of traders sir if there are pioneers and there are followers and laggards. So we try to become the pioneer most of the time so that we have followers and laggards to get out. There should be a entry mechanism as well as the exit mechanism sir.”.*

In response to a further Question by Mr. Nihal Fernando, PC, *“Ah right. So as far as Perpetual Treasuries was concerned, in your original objectives you said that you are dealing in longer tenure bonds. So keeping in line with that concept that you have developed and was of the view you have not had a investment book in your company ?”,* Mr. Palisena replied, *“For a non bank primary dealer, I don’t believe in a investment book My Lord, because non bank primary dealers job should be to keep turning the portfolio round or to buy from the primary auction, and sell out or to trade. A Bank would have a investment book where they have a fixed income, as investments, and as well as a in trading book.”.*

- 9] In response to the Commission of Inquiry Mr. Palisena identified, Perpetual Treasuries Ltd, First Capital Holdings PLC, Wealth Trust Securities Ltd and Capital Alliance as the *“price makers”* in the Treasury Bond market.

- 10] In response to a question from the Commission of Inquiry, with regard to the manner in which Direct Placements were accepted by the PDD prior to 27<sup>th</sup> February 2015, Mr. Palisena responded, *“Yes My Lord we have to normally what happens is everyday we call in the morning to check whether there are private placements done, and then if there are offering they’ll let us know the yield that they offer.”.*

- 11] Mr. Palisena said that the CBSL publishes details of the Treasury Bonds that have been issued stating the total Value of the Treasury Bonds and the Dates of Maturity and that, thereby, Primary Dealers know exactly when the Government will need money to pay for the maturing Treasury Bonds and the Interest Payments that fall due.  
In this connection, Publications extracted from the Website of the CBSL, setting out these details with regard to Treasury Bonds and Sri Lanka Development Bonds, were marked “**PTL44**” and “**PTL45**”.
- 12] Mr. Palisena said that, as set out in the Minutes of the meeting of the Chief Executive Officers of the Primary Dealer Companies held at the CBSL on 24<sup>th</sup> November 2014 and marked, “**PTL47A**”, it was known that the Deficit in the Balance of Payments had increased sharply and that the Sri Lanka Rupee had depreciated against the US Dollar by November 2014. It was also known that, Interest Rates were continuing their downward movement. Mr. Palisena said that, in addition, the US Federal Reserve had announced a “*quantitative easing*”, as set out in the Notice marked “**PTL48A**” and “**PTL48B**”.
- 13] Mr. Palisena said that, these developments prompted Perpetual Treasuries Ltd to sell most of its holdings in long Tenor Treasury Bonds and, in this connection, stated, “*Of course any way whenever there’s uncertainty we always stay in cash sir. So this presidential election announcement made us intensify our selling off. We completely sold out in Month of November. That’s why I have marked a management account for November sir. We have portfolio as you know sir for allocation purposes we were into very short term investments. And we had to have portfolio for reverse re purchases as well as in very short term bonds sir. By November we have fully liquidated the portfolio because November the announcement was there for... Presidential election. Then after that towards December we were carrying about very low about two three billion portfolio in very short term maturities, up to about one year always.*”.
- 14] Mr. Palisena stated that, the Treasury Bond Auction of 27<sup>th</sup> February 2015 had been announced to the Market on 25<sup>th</sup> February 2015. Mr. Palisena said that Mr. Tyrell Gunatillake of the PDD had called him to ask whether Perpetual Treasuries Ltd would be interested in bidding for the thirty-year Treasury Bond. Mr. Palisena stated that, “*He called in the morning sir and he asks whether I have any interest to buy 30 year bonds and of course I said if the yield is right will buy and I ask for the rate. He said may be around 9.35 to 9 and half if I have no mistaken but I remember to say 9.35.*”. Mr. Palisena said he had told Mr. Tyrell Gunatillake that this was not a Realistic rate because the comparative Yields in the Market were “*far higher*” or “*should have been higher*”. Mr. Palisena added, “*Because I told him that the yield is too low for the maturity or that tenure.*”.

When the Commission of Inquiry asked Mr. Palisena what Yield Rate, in his opinion, was reasonable at that time, Mr. Palisena replied, *“Anything about 11 ½ to 12% My Lord.”*

Mr. Palisena also said that, for a long time, no Deals had been done in the Secondary Market for a long time on a 30 Year Treasury Bond and that, therefore, the Rate he mentioned was his estimate of a reasonable and most likely Yield Rate.

- 15] Mr. Palisena stated that he was of the opinion that, by February 2015, the CBSL was *“really desperate for money”*, because of the CBSL had to make aggregating to about Rs. 300 billion on account of Treasury Bonds that were maturing in March 2015, Interest Payments, the large sum payable by Sri Lanka to the IMF in March 2015 and the fact that, the CBSL had not raised funds in January 2015 to meet the Sovereign Bond which had matured for payment in January 2015.

In this connection, Mr. Palisena produced the documents marked **“P52A”**, **“P52B”** and **“P52C”** which set out data extracted from publication by the CBSL publications.

- 16] Mr. Palisena stated that, in this background, Perpetual Treasuries Ltd had decided to place Bids for as much as Rs.15 billion at the Treasury Bond Auction held on 27<sup>th</sup> February 2015.
- 17] Mr. Palisena said that, at that time, the Capital of Perpetual Treasuries Ltd Rs. 1.04 billion which made it possible for Perpetual Treasuries Ltd to leverage this Capital and place Bids for an aggregate sum of Rs. 15 billion.

Mr. Palisena added that Perpetual Treasuries Ltd could arrange the necessary Liquidity to make settlement of the Treasury Bonds that it obtained at the Auction held that day.

- 18] When the Commission of Inquiry asked Mr. Palisena whether the Bids which Perpetual Treasuries Ltd placed at the Treasury Bond Auction on 27<sup>th</sup> February 2015 were out of line with the *“track record”* of the Bids placed by Perpetual Treasuries Ltd at previous Auctions, Mr. Palisena admitted that, it was so.

The relevant evidence in this connection, is set out:

*“Q: On this basis what you have produced, these bid offer total of 13 billion is out of line with your past track record of with your track record. Is that correct ?*

A: *That's correct My Lord."*

and

"Q: *Ok. Can you in response to this question produced one instance of there you have bided of place bids for more than 5-10 times for at least 5-7 times for amount call for amount offered ?*

A: *As I told you earlier My Lord the auctions were not at all attractive because the yields were 20.30,40 sometime 50 basis points lower.*

Q: *Whatever it is you have not bid any past instance for several times a value of the amount offered. Is that correct ?*

A: *That's correct My Lord.*

Q: *On the 27<sup>th</sup> of February you submitted bids the 13 times a value offered ? Is that also correct ?*

A: *Actually it should be around 15 times My Lord with Bank of Ceylon.*

Q: *Sorry 15 times ?*

A: *Correct My Lord. I stand thank you.*

Q: *For 15 times were amount offered ?*

A: *Approximately."*

19] Mr. Palisena stated that, Perpetual Treasuries Ltd had placed Bids to the value of Rs. 13 billion through the Bank of Ceylon to enable Perpetual Treasuries Ltd to raise the Funds necessary to pay for these Bids, by repaying Bank of Ceylon on or after the Settlement Date of 02<sup>nd</sup> March 2015, by entering into REPO or other Transactions through the Open Market Operations Window.

20] Mr. Palisena said that, in the past too, Perpetual Treasuries Ltd has placed Bids at Yield Rates of 11.5% and above at Auctions offering 30 Year Treasury Bonds.

21] Mr. Palisena said that many of the Transactions shown as "Outright Transactions" in the document marked "**C119**" produced by Mr. K.V.K. Alwis, were, in fact, REPO Transactions which had not been recorded as REPO Transactions in "**C119**". He stated that, the appropriate Transaction Code has

not been used in “C119”, as well as in several other documents produced by Mr. Alwis.

- 22] The Palisena also observed that, the document marked “C174” produced by Mr. Alwis states the “*Dirty Prices*”, of the Transactions.

Mr. Palisena produced, marked “PTL81A” to “PTL82G”, documents setting out the corresponding Yield Rates.

- 23] In reply to a Questions by Ms. Romali Tudawe, Attorney-at-Law asking whether Perpetual Treasuries Ltd bid through Pan Asia Banking Corporation PLC at the Treasury Bond Auctions held on 26<sup>th</sup> October 2015 and 30<sup>th</sup> October 2015, Mr. Palisena replied in the affirmative and said that Perpetual Treasuries Ltd did so to make Settlement easier.

The relevant evidence is set out below:

*Q: Did you bid through Pan Asia Bank on the 26<sup>th</sup> and 30<sup>th</sup> of October auction ?*

*A: Yes we did.*

*Q: Were you bidding large amounts in this auctions ?*

*A: Yes.*

*Q: What was the reason for you to bid through PABD for this auction ?*

*A: Settlement.”.*

- 24] Mr. Palisena said that Perpetual Treasuries Ltd placed high value Bids on its own account or through Pan Asia Banking Corporation PLC at these Auctions held in October 2015 because Perpetual Treasuries Ltd expected that the Government would issue a Sovereign Bond of USD 1.5 billion within a short time frame.

In this connection, Perpetual Treasuries Ltd marked as “PTL64”, a news article published on 10<sup>th</sup> April 2015 which stated that, the Government was considering the issue of a USD 1.5 billion sovereign Bond and that, Hon. Dr. Harsha De Silva had commented that, the Sovereign Bond will be issued “*at the appropriate time.*”.

Mr. Palisena also referred to an article published in the Economist Magazine in October 2015, which described Sri Lanka’s efforts to issue Sovereign Bonds.



Mr. Palisena went to say that, during the period of October 2015, there was an increased exiting of foreign investment from the Treasury Bond Market and that, this exerted upward pressure on the Treasury Bond Yield Rates.

In this connection, Mr. Palisena also said that, as set out in the new article marked “**PTL94**”, foreign investors had sold Rs. 12.6 billion worth Treasury Bonds in the week ending October 2014 and observed that this extending a pattern that began with the Interest Rate Cut in April 2015.

Mr. Palisena also marked as “**PTL85**” a Press Release dated 29<sup>th</sup> May 2015 issued by the CBSL which stated that, a Sovereign Treasury Bond for USD 650 and Sri Lanka Development Bond for USD 329 million had been successfully issued.

- 25] Mr. Palisena said that, there had been a Conference held in Singapore in mid-March 2016, to promote foreign investment in Sri Lanka. Mr. Palisena said that he had attended this Conference. Mr. Palisena said that Sri Lanka’s Credit Rating had been downgraded some months earlier and that some Investors who attended this Conference had expressed concerns about the Credit down grading. Mr. Palisena said that, the investors had also referred to a pattern in terms of CBSL was seen to be defending the Sri Lanka Rupee against the US Dollar by using the Sri Lankan Foreign Reserve and that, and that, it was known that, Sri Lanka was planning to obtain assistance from the IMF in April or May 2016.
- 26] Mr. Palisena said that, these factors had resulted in an upward movement in the Yield Rates and that, Perpetual Treasuries Ltd had considered this an opportune time to increase its holdings in Treasury Bonds. In this connection Mr. Palisena produced an internal note prepared by Perpetual Treasuries Ltd and marked “**PTL69**”, which highlighted these developments and it had observed that, “*Bad news will always create an opportunity for us to accumulate positions at a higher rate...*”.
- 27] Mr. Palisena stated that, Perpetual Treasuries Ltd was also aware, from the published information, that the Government required Rs.120 billion to meet obligations on Treasury Bonds and other Debts on 01<sup>st</sup> April 2016.
- 28] He stated that, in this background, Perpetual Treasuries Ltd formed the view that, it should place Bids for high values at high Yield Rates at the Treasury Bond Auctions on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

In this connection, Mr. Palisena produced the Internal Memos prepared by the Financial Analyst of Perpetual Treasuries Ltd, which were marked, “**PTL70**”, “**PTL71**” and “**PTL72**”.

29] We note that the Memo marked “**PTL70**” makes several observations concerning the conditions that prevailed in the Market And states “*For the above mentioned reasons I strongly believe that CBSL is not in position to accept only the advertised amount and they may accept more than that to cover for 01<sup>st</sup> April maturity. Our Strategy should be to bid at a higher rate as we can feel that these are desperate situation for public debt department as they have no choice rather than accept at a higher rate than the prevailing rate.*”.

30] Thereafter, the Memo marked “**PTL71**” states that, all Bids had been rejected at the Treasury Bond Auction held on 24<sup>th</sup> March 2016 and contains the following observations:

*“Crisis will always create an opportunity... this is a real crisis situation for the CBSL as they are not in a situation to print money with CBSL holding is almost Rs. 200bn.*

*My expectation is for CBSL to accept more than Rs. 100bn in this auction even though they have offered Rs. 40bn.*

*The current 10-year yield is trading above 13.50%.*

*As we expect CBSL to accept more than 100bn from the auction it is prudent that we bid well above the market rate and try to accumulate at least Rs. 40bn from the auction...*

*This should be our long-term view whatever we receive from this auction we should maintain in our books and sell it down with at least 100 to 150bps...”.*

31] Lastly, the Memo marked “**PTL72**” states:

*“CBSL has already raised Rs. 77bn from yesterday’s auction (29<sup>th</sup> March 2016) I expect the demand for this auction to be higher than the previous one...*

*We managed to obtain around 25bn from Yesterday’s auction... with a target of Rs. 40bn which we discussed earlier it is advisable that we bid for another 10-15bn with yields ranging from 13.75-14% on the 2028 maturity.”.*

32] Mr. Palisena produced a large number of documents, which he said were PTL’s Deal Tickets relating to PTL’s transactions set out in “**C174**”.

We note here that all these documents have been printed separately and that they are not the originals Deal Tickets.

In those circumstances we note that, in the event that Perpetual Treasuries Ltd has altered the data on the original Deal Tickets prior when preparing these

documents for production before us, such alterations will not be visible on the documents produced by Mr. Palisena.

33] Mr. Palisena said that, after the Monetary Board reduced the Interest Rates applied on overnight Standing Deposit Facility and the Standing Lending Facility, Treasury Bond Yield Rates had declined.

34] In response to a Question asked by Ms. Romali Tudawe, Attorney-at-Law, "*Mr. Palisena, yesterday we were going through the SLDB which was issued. The sovereign bond which was issued in end of October. Is that correct ?*", Mr. Palisena replied, "*That's correct.*", and agreed with her when she asked whether the money "*came in on the 4<sup>th</sup> of November?*".

In reply to a further Question, "*And you provided the data sheet from the Central Bank to show this fact. Mr. Palisena in your experience what happens when a foreign bond is issued and money comes in to the market. What happens to the yield curves?*", Mr. Palisena replied, "*Yields fall drastically My Lord.*".

35] Mr. Palisena marked as "**PTL92**", the Press Release dated 28<sup>th</sup> October 2015, issued by the CBSL which states that, the CBSL had successfully raised a sum of USD 1.5 billion upon a 10 Year International Sovereign Bonds with a Coupon Rate of 6.850% *per annum* on 27<sup>th</sup> October 2015.

36] Mr. Palisena marked as "**PTL101**", the Press Release dated 30<sup>th</sup> December 2015 issued by the CBSL, which sets out the "Monetary Policy Review- December 2015" and states that there had been excess Liquidity in the Market in December 2015 and higher Inflation and that, therefore, the Monetary Board was of view that, Monetary Policy be tightened and Liquidity to be reduced.

37] Mr. Palisena marked as "**PTL103**", the Press Release dated 25<sup>th</sup> January 2016 issued by the CBSL, which sets out the "Monetary Policy Review- January 2015" and states that, the CBSL had increased the Statutory Reserve Ratio by 1.5% up to 7.5% with effect from 16<sup>th</sup> January 2016 and that, this action resulted in the decline of excess Liquidity in the Domestic Money Market.

38] Mr. Palisena said that, as a result of the increase in the Statutory Reserve Ratio, Interest Rates and Yield Rates had moved upwards from January 2016 onwards. In this connection, he produced a document, marked "**PTL102**", which set out the "Sri Lanka Yield Curve from 04<sup>th</sup> September 2015 - 08<sup>th</sup> January 2016".

39] Mr. Palisena marked as "**PTL108**", a Reuters Report titled, "Fitch Downgrades Sri Lanka to 'B+'; Outlook Negative", which states that, Fitch Ratings had

downgraded Sri Lanka's Long Term Foreign and Local Currency Issuer Default Ratings (IDRs) to 'B+' from 'BB-' and assigned a Negative Outlook to the IDRs.

- 40] Mr. Palisena said that, as set out in the Press Release dated 18<sup>th</sup> January 2016 issued by the CBSL and marked "**PTL105**", CBSL had offered Sri Lanka Development Bonds amounting to USD 75 million in mid-January 2015.
- 41] Mr. Palisena said that, as set out in the "Monetary Policy Review- February 2015" marked "**PTL107**", following the increase in the Statutory Reserve Ratio, excess Liquidity in the Market had continued to decline and there was an increase in the Interest Rates, Yield Rates and Inflation. Further, as stated therein, in view of these developments, the Monetary Board had increased the Rates on the overnight Standing Deposit Facility and the Standing Lending Facility, by 50 basis points each, to 6.5% *per annum* and 8% *per annum* respectively, with effect from 19<sup>th</sup> February 2016.
- 42] Mr. Palisena stated that, in view of these developments, Perpetual Treasuries Ltd had liquidated much of its holdings in Treasury Bonds, by end February 2016.

In this connection, in response to Questions asked by Ms. Romali Tudawe, Mr. Palisena gave the following evidence:

*“Q: Thank you. By the end of 2016 February what was your portfolio? Did you liquidate or were you holding?”*

*A: We have liquidated by that time.*

*Q: Why did you liquidate during this period?”*

*A: Because of the rate hike and even there was news about a country downgrade, My Lord. But it actually happened afterwards.*

*Q: The news of the country downgrade did what was the effect on the market? In the local bond market ?*

*A: That is negative news. Because all are currency which is as assets will be downgraded. So we might have to give a higher Interest Rates for us to attract investors. Even there was a heavy foreign selling in that period.”.*

Mr. Palisena added that Perpetual Treasuries Ltd did not actively trade in the Market in the early part of March 2016.

Mr. Palisena stated that, by the time the Treasury Bond Auction was held on 24<sup>th</sup> March 2016, Yield Rates had picked up.

Mr. Palisena said that, all Bids were rejected at the Treasury Bond Auction the Auction held on 24<sup>th</sup> March 2016, but that a high value of Bids had been accepted at the next two Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

Mr. Palisena said that Perpetual Treasuries Ltd decided to bid aggressively at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

In this connection, in response to a Question by Ms. Romali Tudawe, *“And as we have marked the, you have marked the pre bid memo prior, you have bid in this auction and you have decided to a bid aggressively ?”*, Mr. Palisena stated, *“That’s correct. 1<sup>st</sup> Auction and 2<sup>nd</sup> auction both.”*

- 43] We note that Mr. Palisena gave this evidence before Mr. Nuwan Salgado testified with regard to the deleted Recordings and the details of Telephone Phone Conversations between Mr. Arjun Aloysius and Mr. Palisena on 29<sup>th</sup> March 2016, came to light.
- 44] Mr. Palisena said that, Perpetual Treasuries Ltd based its Profit Calculations on the Capital Gain or Capital Loss on the Treasury Bonds held by the Perpetual Treasuries Ltd and, in this connection, produced the document marked **“P121”**.
- 45] At this stage, the Commission of Inquiry questioned Mr. Palisena with regard to the Recordings submitted by Perpetual Treasuries Ltd to the Commission of Inquiry and Mr. Palisena stated that, Perpetual Treasuries Ltd had not tampered with the Telephone Call Records.

The relevant evidence is set out:

*“Q: Mr. Palisena you are own [on] oath ?*

*A: Yes sir.*

*Q: If you give falls [false] evidence you can be dealt with and punished for criminal offences, if you give falls [false]evidence.*

*A: sure.*

*Q: And it is proved not in some other forum, in some other court or body if it is proved you can be sent to jailed. You know that ?*

A: Yes.

Q: *So you are aware that you must tell us the truth ?*

A: *Yes My Lord.*

Q: *Well aware of that ?*

A: Yes.

Q: *I am going to ask you a few questions ?*

A: Yes.

Q: *Did you give all the call recordings for the period that was specified ?*

A: *We have given all the call recordings for the period that was specified.*

Q: *So it's every working day is that period is there a call recording ?*

A: *Yes My Lord there has to be..*

Q: *Ok, now when you give the call recordings in what format is it recorded ?*

A: *I don't have technical knowledge of that.*

Q: *Right when you get it out/ is it in CD or is it in a computer file ?*

A: *Currently did in a computer file My Lord.*

Q: *Have you looked at that computer file ?*

A: *Today in the morning I checked.*

Q: *Is the date of each recording on it ?*

A: *Its under a folder My Lord folder will have the serial number.*

Q: *Then within that folder all the calls were that day recorded ?*

A: Yes.



Q: *Right. Now...*

A: *All the call record [recorded] the dealing room.*

Q: *In the dealing room yes. I am no asking with this. Are tie line also recorded ?*

A: *Yes.*

Q: *Direct line also recorded ?*

A: *Yes.*

Q: *Are mobile conversations are recorded ?*

A: *Yes.*

Q: *Everything is recorded.*

A: *If mobile phone is to be dial from the dealing room, yes.*

Q: *So any novice [conversation] in the dealing room or whatever sort is recorded ?*

A: *Yes.*

Q: *Is at [that] correct ?*

A: *Yes.*

Q: *Now whenever there is a conversation is the time of that conversation stated ?*

A: *Time is not mentioned My Lord. Only the time period but not exact time at that ?*

Q: *`You are aware once again I remind it that you giving evidence are under oath ?*

A: *Yes.*

Q: *so the time is each conversation is not recorded ?*

A: *When I checked in the morning no it was not there.*

Q: *The other persons the call number is it recorded ?*

A: *No it was not recorded.*

Q: *Now this system who supplied is system to you ?*

A: *Metropolitan My Lord.*

Q: *How long ago ?*

A: *2015 June.*

Q: *Have you interfere with or amended the system you anyway? Have you modified the system in any way ?*

A: *From purchase ?*

Q: *Yes.*

A: *No. I don't think no.*

Q: *You would be aware if it was modified ?*

A: *I will be aware if its My Lord.*

Q: *So therefore the Metropolitan will know exactly the capabilities of this system ? Right ?*

A: *Yes.*

Q: *So if Metropolitan the system is capable of recording the time of telephone conversation and calling party, Metropolitan would know ?*

A: *Yes, that I need to check with my ID [IT], yes it has.*

Q: *You tell us and [on] oath and [that] Perpetual Treasuries has not modified the system in anyway ?*

A: *We have no [not] modified system.*

46] When Mr. Palisena was cross examined by Mr. Kalinga Indatissa, PC, Mr. Palisena said that he had no idea how the Dividends paid by Perpetual Treasuries Ltd had been used by the Beneficiaries.

- 47] In reply to a further Question by Mr. Kalinga Indatissa, PC, Mr. Palisena said that, Mr. Sachith Devathanthri had knowledge about the Telephone Call Recording system used by Perpetual Treasuries Ltd and that Mr. Sachith Devathanthri was *“the best person to explain details about this telephone system”*.
- 48] Mr. Palisena marked as **“KP1”**, a document listing the Shares in Companies held by Perpetual Capital Holdings Pvt Ltd, Perpetual Equity Pvt Ltd and Perpetual Asset Management Pvt Ltd.
- 49] In response to Questions from the Commission of Inquiry, Mr. Palisena stated that Perpetual Treasuries Ltd directly owns the Shares in NDB.

In this connection we set out below the relevant evidence.

*“Q: Does PTL as at date own any form of shares ?*

*A: We have NDB Bank.*

*Q: Yes, you in addition to the shares that Perpetual Equity Management through Perpetual Equity Private Limited have invested in NDB, LOLC, Ashok Leyland and Central Bank of Sri Lanka Finance, is it not correct that Perpetual Treasuries Limited directly owns another 1.1 billion worth of shares ?*

*A: That’s correct My Lord. NDB Bank voting shares.*

*Q: So altogether you own the group, owns at least 3.8 Billion worth of NDB shares?*

*A: No 500 million of NDB shares and 1. Billion of.*

*Q: Sorry.*

*A: That a total value My Lord, at the bottom.*

*Q: That value is at the bottom ?*

*A: that’s correct, that’s with Ashok and Central Bank of Sri Lanka Finance and Ashok.*

*Q: So what the total value ...*

*A: Approximately about close to 1.9 to approximately 2 billion My Lord.*

Q: *Two Billion worth of NDB shares.*

A: *That's correct.*

Q: *In addition to the shares in Ashok Leyland and Central Bank of Sri Lanka Finance ?*

A: *That's right."*

50] Thereafter, Mr. Palisena was cross examined extensively by learned Deputy Solicitor General. The relevant evidence obtained in Cross Examination will be referred to, where necessary, in the later Chapters of this Report.

**Section 5.47** - **Mr. Y.N.R. Dharmarathne**

Mr. Dharmarathne is the Chief Engineer of Metropolitan Communications (Pvt) Ltd. His Evidence-in-Chief was placed before this Commission of Inquiry by way of his Affidavit dated 29<sup>th</sup> August 2017, which was marked "C229".

Metropolitan Communications (Pvt) Ltd had supplied and installed an "Xtend Voice Logger Application" at Perpetual Treasuries Ltd.

Upon an application made by the officers the Hon. Attorney General's Department who assisted this Commission of Inquiry, an Order was issued directing Metropolitan Communications (Pvt) Ltd to carry out an Onsite Extraction of the Data on this "Xtend Voice Logger Application" at Perpetual Treasuries Ltd and to submit a Report to this Commission of Inquiry. This Order was issued, *inter alia*, for the reason that, the Voice Recordings of Telephone Calls submitted by Perpetual Treasuries Ltd to the Commission of Inquiry did not have details such as Caller Identification ["CLI"] and other details which would enable a listener to identify the dates and times at which the telephone calls took place and the identity of the parties to the telephone calls.

In pursuance of this Order, Metropolitan Communications (Pvt) Ltd had, on 26<sup>th</sup> August 2017, carried out an Onsite Extraction of the Data which was on this "Xtend Voice Logger Application" at the office of Perpetual Treasuries Ltd.

The relevant evidence of this witness is:

- 1] Metropolitan Communications (Pvt) Ltd is the Agent of Xtend Technologies (Pvt) Ltd, who are the Manufacturers of the "Xtend Voice Logger Application".
- 2] Metropolitan Communications (Pvt) Ltd had installed a PABX Intercom Telephone System at Perpetual Treasuries (Pvt) Ltd in December 2013. A Report of this installation was annexed to the aforesaid Affidavit.

- 3] Mr. Dharmarathne stated that, in June 2015, Metropolitan Communications (Pvt) Ltd supplied and installed an 8 Port “Xtend Voice Logger Application” at Perpetual Treasuries (Pvt) Ltd. Thereafter, in September 2016, Metropolitan Communications (Pvt) Ltd supplied and installed a 16 Port “Xtend Voice Logger Application” at Perpetual Treasuries (Pvt) Ltd.
- 4] These “Xtend Voice Logger Applications” had been installed on an ACER Aspire 2631 Desk Top Computer at Perpetual Treasuries (Pvt) Ltd.
- 5] The “Xtend Voice Logger Application” is a Multi-Line Voice Recording System which records Incoming and Outgoing Telephone Calls on the aforesaid PABX Intercom System and some other Telephone Lines at Perpetual Treasuries (Pvt) Ltd.
- 6] Voice Recordings are saved as “Wave Files”, by the “Xtend Voice Logger Application”.
- 7] Telephone Call Details - such as CLI, Call Time, Trunk Caller Number, Called Number, Type, Duration, Status and Data Type - are saved on Data Files, by the “Xtend Voice Logger Application”.
- 8] Mr. Dharmarathne stated that, CLI is a Standard Feature of the “Xtend Voice Logger Application”.
- 9] Mr. Dharmarathne stated that, the “Xtend Voice Logger Application” features an Administration Window which will give access to the following information: Caller ID, Call Time, Trunk Caller Number, Called Number, Type, Duration, Status and Data Type. A “Screen Shot” of the Administration Window was annexed to the Affidavit.
- 10] Mr. Dharmarathne stated that, the “Xtend Voice Logger Application” provided by Metropolitan Communications (Pvt) Ltd to Perpetual Treasuries Ltd, included all the features referred to above.
- 11] The Service Agreements entered into by and between Metropolitan Communications (Pvt) Ltd and Perpetual Treasuries Ltd for the maintenance of the PABX Telephone System, which also included the “Xtend Voice Logger Application”, were also annexed to the Affidavit.
- 12] In pursuance of an Order made by this Commission of Inquiry, the witness together with other officers of Metropolitan Communications (Pvt) Ltd, carried out an Onsite Extraction of Data which was on the “Xtend Voice Logger

Application” at Perpetual Treasuries Ltd. This was done on 26<sup>th</sup> August 2017 with the support of Xtend Technologies (Pvt) Ltd.

- 13] Mr. Dharmarathne said that, when the Onsite Extraction of Data was carried out, it was found that, the “Xtend Voice Logger Application” at Perpetual Treasuries Ltd did not contain CLI details although retention of CLI details was a standard feature of the “Xtend Voice Logger Application” which had been installed by Metropolitan Communications (Pvt) Ltd.

Further, it had been found that, Data which is vital for the restoration of all details recorded on the “Xtend Voice Logger Application” during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> May 2016, was not available.

- 14] Instead, only the “Wave Files” relating to this period [containing the Voice Recordings only] were available for extraction.

The Data Files [containing Telephone Call Details such as CLI, Call Time, Trunk Caller Number, Called Number, Type, Duration, Status and Data Type] were not available for extraction.

- 15] It was also evident that, these “Wave Files” were not the “Wave Files” that had been automatically recorded on the “Xtend Voice Logger Application” at the time of the Telephone Calls but had, instead, been copied on to the Computer from another source.

- 16] Further, it was found that the “Wave Files” relating to the period 01<sup>st</sup> February 2015 to 31<sup>st</sup> May 2016, had been copied on to the Computer without the related Data Files.

- 17] When the Log was examined, it was found that there had been a Re-Installation [*“a fresh Installation”*] of the “Xtend Voice Logger Application”, which had been done on 06<sup>th</sup> July 2017 at 12.43pm. In this connection, a “Screen Shot” of the related “Administration Window” of the “Xtend Voice Logger Application” was annexed to the Affidavit.

- 18] Further, it was found that, the “Xtend Voice Logger Application” had been re-configured twice on 21<sup>st</sup> July 2017 and that this had been done after the “Wave Files” had been copied on to the Computer on 20<sup>th</sup> July 2017.

- 19] Mr. Dharmarathne stated that, officers of Metropolitan Communications (Pvt) Ltd had not engaged in or assisted in this Re-Installation of the “Xtend Voice Logger System” at Perpetual Treasuries (Pvt) Ltd.



- 20] As a result, only the Voice Recordings of Telephone Calls were available for extraction from the “Xtend Voice Logger Application” and details which serve to identify Voice Recordings - ie: Date, Time and Caller ID - had been removed from the “Xtend Voice Logger Application”.

**Section 5.48** - **Mr. D.S.M. Devathanthri**

Mr. Devathanthri is the Information Technology Executive. He joined the services of Perpetual Treasuries Ltd in December 2013. His Evidence-in-Chief was placed before this Commission of Inquiry by way of his Affidavit dated 30<sup>th</sup> August 2017, which was marked “**C235**”.

The relevant evidence of the witness is:

- 1] Mr. Devathanthri is responsible for managing and providing Information Technology operations and services at Perpetual Treasuries Ltd and sourcing the required equipment.
- 2] Mr. Devathanthri stated that, Perpetual Treasuries Ltd purchased an 8 Port “Xtend Voice Logger Application System” from Metropolitan Communication (Pvt) Ltd on 19<sup>th</sup> May 2015. This was later upgraded to 24 Ports by the addition of a 16 Port “Xtend Voice Logger Application”.
- 3] Mr. Devathanthri stated that, the features of the “Xtend Voice Logger Application System” included the recording of all Telephone Conversations that were originated and received on the designated Telephone Lines connected to the PABX Telephone Exchange System at Perpetual Treasuries Ltd and the recording of all the related Call Details such as Caller Line Identification of the Telephone Calls etc.
- 4] Mr. Devathanthri stated that, due to a malfunction in the operation of the “Xtend Voice Logger Application System”, there had been some inaccuracies in the recording of Incoming and Outgoing Telephone Call Numbers. Perpetual Treasuries Ltd had informed Metropolitan Communication (Pvt) Ltd of this defect. Thereafter, Metropolitan Communication (Pvt) Ltd had corrected 90% of the problem by the month of August 2015 and, by December 2015, the problem had been solved and the “Xtend Voice Logger Application System” had been functioning properly with Incoming and Outgoing Telephone Call Numbers being recorded.

- 5] Accordingly, Mr. Devathanthri stated that, the Wave Files containing Telephone Call Recordings and Data Files containing the related Call Details of those Telephone Calls, were recorded on the "Xtend Voice Logger Application System" from the month of June 2015 up to 04<sup>th</sup> July 2017 and were stored in the Hard Drive of the Computer supplied by Metropolitan Communication (Pvt) Ltd.
- 6] Mr. Devathanthri said that, he had configured the "Xtend Voice Logger Application System" with the aid of the Internet and the Xtend Voice Logger Configuration Window.
- 7] Mr. Devathanthri stated that, in March 2017, Mr. Nuwan Salgado had asked him to delete several Wave Files relating to Telephone Conversations which took place on 29<sup>th</sup> March 2016 and 30<sup>th</sup> March 2016.
- 8] Mr. Devathanthri stated that, on 05<sup>th</sup> July 2017, the Chief Dealer of Perpetual Treasuries Ltd, Mr. Nuwan Salgado had come to meet him in the Server Room of Perpetual Treasuries Ltd.
- 9] Mr. Salgado had instructed Mr. Devathanthri to delete around 15 Wave Files containing Recordings of Telephone Conversations which had been stored on the "Xtend Voice Logger Application System". Mr. Salgado had the Serial Numbers and details relating to those Wave Files, written down in a notebook.
- 10] However, before carrying out the aforesaid deletion of Wave Files at the request of Mr. Salgado on 05<sup>th</sup> July 2017, Mr. Devathanthri had copied all the original records which were recorded on the "Xtend Voice Logger Application System" on to several Compact Discs and handed these Compact Discs to Mr. Salgado.

These Compact Discs contain all Wave Files and Data Files recorded on the "Xtend Voice Logger Application System" from 19<sup>th</sup> May 2015 to or about 31<sup>st</sup> March 2017 and all Wave Files and Data Files recorded on the "Xtend Voice Logger Application System" from 01<sup>st</sup> April 2017 onwards up to 05<sup>th</sup> July 2017.

- 11] Thereafter, starting from about 9.30am on 05<sup>th</sup> July 2017, Mr. Devathanthri had deleted those 15 Wave Files [which had been identified by Mr. Salgado] from the "Xtend Voice Logger Application System" at Perpetual Treasuries Ltd.

Next, in order to maintain a sequence of the Serial Numbers of the Wave Files recorded on the "Xtend Voice Logger Application System", Mr. Devathanthri had copied some other Wave Files containing Recordings of other Telephone Conversations.

Mr. Devathanthri had also deleted all the Data Files the “Xtend Voice Logger Application System” which contained Call Details.

This process had taken about 4 to 5 hours to complete.

- 12] Mr. Devathanthri first stated that, on 05<sup>th</sup> July 2017, he had intended to “crash” the Hard Disc of the ACER Computer at Perpetual Treasuries Ltd but claimed said that he was unable to so because this Computer had stopped working on the next day – *ie*: on 06<sup>th</sup> July 2017.

Mr. Devathanthri added that the idea of “crashing” the ACER Computer had been discussed by him with Mr. Salgado, since they had realised that it may be possible to recover the deleted Wave Files and Data Files from the Hard Disc of the ACER Computer.

However, Mr. Devathanthri later admitted that, after completing the aforesaid procedure including preparing the Backup Files which he had handed to Mr. Salgado, Mr. Devathanthri had “crashed” the Hard Disc of the ACER Computer after learning how to do so by studying Videos on YouTube.

- 13] Mr. Devathanthri had, thereafter, on 06<sup>th</sup> July 2017, temporarily installed the “Xtend Voice Logger Application System” on to another Computer at Perpetual Treasuries Ltd and later, on 21<sup>st</sup> July 2017, configured the “Xtend Voice Logger Application System” which was on that Computer.
- 14] Mr. Devathanthri said that, subsequently, Mr. Kasun Palisena had informed him that, the Commission of Inquiry had requested Perpetual Treasuries Ltd to furnish Telephone Call Recordings relating to the period from January 2015 to September 2016.
- 15] Mr. Devathanthri had then copied the altered records of the “Xtend Voice Logger Application System” on to some other Compact Discs and these other Compact Discs [*ie*: containing altered Records] had been submitted by Perpetual Treasuries Ltd, to the Commission of Inquiry.
- 16] Therefore, the original records of the “Xtend Voice Logger Application System” – *ie*: the records prior to the aforesaid deletion of some Wave Files and substitution of some other Wave Files – had not been submitted to the Commission of Inquiry by Perpetual Treasuries Ltd.
- 17] Mr. Devathanthri said that, an Access Card is needed to enter the Server Room at Perpetual Treasuries Ltd and that this Access Card is usually kept in his safe.

- 18] In reply to Questions asked by Mr. Kalinga Indatissa, PC, representing Mr. Kasun Palisena, the witness said that all instructions to delete Wave Files had been given to him by Mr. Salgado and not by Mr. Palisena.

**Section 5.49** - **Mr. N. T. Salgado**

Mr. Nuwan Salgado is the Chief Dealer of Perpetual Treasuries Ltd. He joined the services of Perpetual Treasuries Ltd in November 2013. He was appointed to the position of Chief Dealer on 01<sup>st</sup> February 2015. His Evidence-in-Chief was placed before this Commission of Inquiry by way of his Affidavit dated 03<sup>rd</sup> September 2017 marked “C237” and his Affidavit dated 12<sup>th</sup> October 2017 marked “C329”. [A similar Affidavit to “C329”, which bore an erroneous date, had been earlier marked “C238”]

The relevant evidence of this witness is:

- 1] Mr. Salgado said that, Mr. Arjun Aloysius frequently contacted Mr. Kasun Palisena, Chief Executive Officer of Perpetual Treasuries Ltd, with regard to the operations and transactions of Perpetual Treasuries Ltd. The witness said, “*Mr. Aloysius would check how the activities go*” and “*He would check on day’s activities*” and added, “*Frequently*”. Mr. Salgado also said that Mr. Aloysius would be aware of any major decision taken by Perpetual Treasuries Ltd.

Mr. Salgado said that, when Mr. Palisena was not at work, Mr. Aloysius contacted the witness regarding the operations and transactions of Perpetual Treasuries Ltd and to obtain updates of the day to day activities of Perpetual Treasuries Ltd.

- 2] Mr. Salgado said that, Mr. Aloysius and Mr. Palisena collectively took important decisions relating to Perpetual Treasuries Ltd.
- 3] Mr. Salgado said that, Mr. Aloysius would have been aware of any major decision taken by Mr. Palisena relating to Perpetual Treasuries Ltd.
- 4] Mr. Salgado said that, accordingly, he believed that, Mr. Palisena would have consulted Mr. Aloysius, when decisions were taken with regard to Perpetual Treasuries Ltd bidding at the Treasury Bond Auction held on 27<sup>th</sup> February 2015.
- 5] Mr. Salgado stated that, the “Xtend Voice Logger System” was in use at Perpetual Treasuries Ltd, from about May 2015 onwards.
- 6] Mr. Salgado stated that in November 2016, he had received instructions from Mr. Palisena to start listening to Telephone Call Recordings on the “Xtend Voice

Logger System” and to identify and delete conversations which were “*harmful*” to the interests of Perpetual Treasuries Ltd and Mr. Palisena.

Mr. Salgado said that, this instruction was given soon after Perpetual Treasuries Ltd had received a letter sent by the CBSL.

- 7] Thereafter, the witness had complied with this instruction and commenced listening to Telephone Call Recordings on the “Xtend Voice Logger System” and noting down, in a notebook or piece of paper, the serial numbers of the Telephone Calls which he considered had “*harmful*” content.

He said that, this exercise was carried out over a long period of time commencing from the month November 2016.

- 8] Upon questioning by the Commission of Inquiry, Mr. Salgado stated that, he considered as “*harmful*”, conversations that could lead to an inference of wrongful conduct on the part of Perpetual Treasuries Ltd, such as: conversations concerning Perpetual Treasuries Ltd pushing Market Rates in a particular direction; conversations indicating collusion between Perpetual Treasuries Ltd and another party; conversations showing that Perpetual Treasuries Ltd was dealing at a Rate which was not the Market Rate; conversations showing that Perpetual Treasuries Ltd had inside information with regard to matters concerning the CBSL etc.

- 9] Mr. Salgado said that, Mr. Palisena was aware that, the witness was engaged in this exercise.

- 10] Mr. Salgado recalled having identified some conversations between Mr. Palisena and Mr. Aloysius which contained such “*harmful*” content.

- 11] Mr. Salgado stated that he was aware of the public outcry concerning the Treasury Bond Auction held on 27<sup>th</sup> February 2015.

- 12] The witness recalled that, in the month of March 2017, Mr. Palisena informed him that, Perpetual Treasuries Ltd had received a letter issued by an “*authority*” which had required Perpetual Treasuries Ltd to produce the Telephone Call Recordings of 29<sup>th</sup> March 2016 and 30<sup>th</sup> March 2016.

- 13] Mr. Palisena had instructed Mr. Salgado to delete all Telephone Call Recordings on those two days which were “*harmful*” to the interests of Perpetual Treasuries Ltd and Mr. Palisena, before handing over these Telephone Call Recordings to the “*authority*”.

- 14] Mr. Salgado had identified those Telephone Calls, which amounted to about 5-10. He had then given the related Serial Numbers and details to Mr. Sachith Devathanthri and instructed him to delete the Voice Recordings of those Telephone Calls. Mr. Salgado said that he recollects one of those conversations was between Mr. Arjun Aloysius and Mr. Palisena.
- 15] Mr. Palisena knew that, Mr. Salgado had identified those Telephone Calls and instructed Mr. Devathanthri to delete the Voice Recordings of those Telephone Calls.
- 16] These Telephone Calls contained conversations involving Mr. Palisena, Mr. Gajan, Mr. Kaushitha Ratnaweera and Mr. Salgado.
- 17] Subsequently, Mr. Devathanthri had returned to the Dealing Room and reported to the witness and Mr. Palisena that, Mr. Devathanthri had deleted the Voice Recordings of those Telephone Calls identified by Mr. Salgado.
- 18] Mr. Salgado stated that, subsequently, after Perpetual Treasuries Ltd shifted to its new premises at the Parkland Building, Mr. Palisena instructed him to identify and delete more Telephone Call Recordings.
- 19] As in the previous instance, Mr. Salgado had had complied with this instruction and listened to more Telephone Call Recordings on the "Xtend Voice Logger System" and noted down the Serial Numbers of the Telephone Calls which he considered had "harmful" content and, then instructed Mr. Devathanthri to delete these Telephone Call Recordings.
- 20] Mr. Devathanthri later reported to the witness and Mr. Palisena that, he had deleted those Telephone Call Recordings too.
- 21] At that stage, a decision was taken to "crash" the ACER Desk Top Computer which contained the Data Base of the "Xtend Voice Logger System".
- Mr. Salgado said that the decision was taken by Mr. Palisena, the witness and Mr. Devathanthri.
- 22] Mr. Salgado said that, the decision to "crash" the Desk Top Computer which contained the Data Base of the "Xtend Voice Logger System" computer was a critical decision which would not have been taken without the knowledge of Mr. Aloysius.
- 23] On the next day, Mr. Devathanthri reported that, in accordance with this decision, he had linked another Computer to the ACER Desk Top Computer which contained the Data Base of the "Xtend Voice Logger System".



- 24] Later, Mr. Devathanthri reported that, he had “crashed” the ACER Desk Top Computer.
- 25] Mr. Salgado said that Mr. Aloysius would have been aware of the decision to “crash” the computer.
- 26] Mr. Salgado said that, he had given instructions to Mr. Devathanthri to delete a total of over 100 Telephone Call Recordings.
- 27] Mr. Salgado said that, he carried out the aforesaid acts on the instructions of Mr. Palisena and to protect Perpetual Treasuries Ltd.
- 28] Mr. Salgado said that, Mr. Palisena, Mr. Salgado and Mr. Devathanthri were all aware that, the copies of Voice Recordings submitted by Perpetual Treasuries Ltd to the Commission of Inquiry contained the “*edited wave files*” and were “*not the original call records, but the tampered call records.*”.
- 29] Mr. Salgado said that, Mr. Palisena dealt with Mr. Indika Saman Kumara of EPF and that the witness did not deal with Mr. Indika Saman Kumara. Mr. Salgado said the only officer of the EPF he had dealt with, was Mr. Udayaseelan.
- 30] When asked by the Commission of Inquiry, Mr. Salgado agreed that, Perpetual Treasuries Ltd was able to obtain an advantageous leverage by purchasing a large value of Treasury Bonds at “*cheap rates*” at the Auction held on 27<sup>th</sup> February 2015 and that, thereafter, Perpetual Treasuries Ltd had been able to make “*phenomenal profits*” by using that leverage. He said that, these profits were realised over a period of time and that much of these profits were made in November 2015.
- 31] In reply to a question from the Commission of Inquiry whether, “*Finally the profit was realized by EPF deciding to buy those bonds. Am I right?*”, Mr. Salgado replied “*He is one of many who bought sir, but his volumes were big, very big.*”. When the Commission of Inquiry then asked, “*Yes, so the large volume of profits resulted from PTL’s sales either directly or through proxy, to EPF. Correct.?*”, Mr. Salgado replied “*Yes*”.
- 32] Mr. Salgado was shown the 4 Compact Discs containing the Unedited Telephone Call Recordings and marked “**C238A**”, “**C238B**”, “**C238C**” and “**C238D**” which the Commission of Inquiry had obtained from the possession of Mr. Salgado who had custody of these Compact Discs on behalf of Perpetual Treasuries Ltd. Mr. Salgado said that he had handed these Compact Discs, which he had placed in four separate covers, to the officers assisting the Commission of Inquiry.

These Compact Discs contain unedited Telephone Call Recordings of telephone conversations of officers of Perpetual Treasuries Ltd with other persons and between these officers, during the periods: 20<sup>th</sup> May 2015 to 31<sup>st</sup> December 2015, 01<sup>st</sup> January 2016 to 31<sup>st</sup> May 2016, 01<sup>st</sup> June 2016 to 31<sup>st</sup> October and 01<sup>st</sup> November 2016 to 31<sup>st</sup> March 2017 – ie: Telephone Call Recordings prior to Perpetual Treasuries Ltd tampering with and deleting some Recordings and Data.

33] Mr. Salgado identified the Audio Recording of the following telephone conversation [Serial No. 176614] between Mr. Kasun Palisena and Mr. Nuwan Salgado, which commenced at 12.58pm on 12<sup>th</sup> August 2016.

This telephone conversation is reproduced below:

KP- හලෝ! හලෝ!

NS - Yes, මම.

KP- මේ, මගේ අර කෝප් එකේ මම දුන්න ස්ටේට්මන්ට් එක

NS - ඔව්

KP- මම හිතන්නේ අර්ජුන් ගාව නියෙනවා. කවුද අර රෝසිගේ දුවද පුතාද කොහෙද දන්නා අරජුන්ට.

NS - හා හා

KP- හුල් ස්ටේට්මන්ට් එක

NS - හා හා

KP- අනේ උඹ එක පොඩ්ඩක් හොයලා බලලා උඹ අතට ගන්නවද? ගානට ගන්න ඕන එක. ආ ආයින් ලොක්කට කලා කරනවද? ලොක්කා ගාව නියෙයිද දන්නේ නැහැනේ? උබට කොපියක් මේ කවුද මේ

NS - නැහැ මට කොපියක් දන්නේ නැහැ.

KP - රෝසිගේ පුතා. අන්න උන් හොයලා දෙන්නන්ද මොකක්ද කිව්වාලු

NS - මම එහෙනම් ලොක්කට කලා කරන්නද?

KP- ඔව්. හා. රෝසිගේ පුතා ගාව නියෙනවා කිව්වා. උගේ නම්බර් එක ඉල්ලගෙන එක කරන්න.

NS - හර් හර්....මේ... මේ....

- KP- මේ මොකක්ද කියන්න කිව්වේ?
- NS - මොකුත් නැහැ සංජීව has gone to the “ඇල මැද්දේ ගෙදරට.”  
පාර්ලිමන්ට්.
- KP- ඒ මොකටද?
- NS - කෝප්.
- KP - ඒ මොකටද?
- NS - Who knows මම I think hearing එකක් යනවා. ගවනගේ hearing එක. නැත්නම් අපේ එක. දෙකින් එකක්.
- KP - කියලා ලියුමක් ආවාද?
- NS - නම් ලියුමක් ආවේ නැහැ මම. කොහොම හරි. That person has gone. එහේ ඉදන් එයා අර නව එක්කෙනෙක් එක්ක ඩේටා ඉල්ලනවා. එහේ ඉදන් අතේ නැහැතේ මම. ඔක්කොම compile කරලා දෙන්න ඕන. ඉතින් හද හදා දෙනවා උඟට. Then ඔය ටික තමයි. ඡේප් එකේ plate----
- KP- අද උදේද කිව්වේ?
- NS- ඔව් ඔව් දැන් මේ උදේ ඉදන් කලා කරනවා. අද උදේ කියනවා. අද උදේ කියන්නේ මම මෙනින් එළියට යන්න වාහනේ ගන්නාම කියනවා අර ඩේටා ඕන මේ ඩේටා ඕන කියලා. පොඩ්ඩක් කියපන්.
- KP- මහ මෝඩයෙක්නේ.
- NS - පිස්සු බං. ලැහැස්ති වෙලා නෙමෙයි යන්නේ. එනන යන්නේ. එනන ගියාම ගන්න විදිහට තමයි උන් හිතාගෙන ඉන්නේ.
- KP- අයියෝ. අයියෝ
- NS - මම නායි මම උන් පෙරලගෙන නායි. හරි මං ලොක්කට කලා කරලා කියන්නම්. ස්ටේට්මන් එක එයාගෙන් තමයි ගන්න ඕන කියලා.
- KP- හරි හරි
- NS - ඕකේ මම.

34] Mr. Salgado identified the Audio Recording of the following telephone conversation [Serial No. 111064] between Mr. Kasun Palisena and Mr. Arjun Aloysius, which commenced at 9.18am on 29<sup>th</sup> March 2016.

This telephone conversation is reproduced below using a Transcript prepared by the Officers assisting the Commission of Inquiry. This Transcript has been checked by to listening to the Audio Recording.:

**“Operator Recording: Mobitel user you are calling is currently roaming internationally. Please continue to hold if you wish to be connected.**

*KP- Chollunga*

*AA- Kasun*

*KP- Hi Arjun*

*AA- Hi. So, yesterday there was a meeting that was called.*

*KP- OK.*

*AA- With all the State Banks, an instruction had gone that the state banks bid low.*

*KP- OK.*

*AA- OK.? So I found from our friend that NSB and other friend at BOC. And they haven't given a specification of what rate to them, but they want to bid low.*

*KP- OK.*

*AA- Then there were other things. I'll give you a quick background. The other things that were mentioned was that basically proposition to take the S.R.R. out. OK ? And certain other propositions basically to drastically bring the rates down after the hundred and twenty six billion is raised. The actual number is one twenty two, not one twenty six. Right ?*

*KP- OK.*

*AA- So, that's the status. Now, there are few scenarios that's going to play out. Scenario one, the entire market is expecting a rate hike today. That is not going to take place. OK ?*

*KP- Yeah.*

*AA- Right. So, our friends from the department are telling us, if we can, why don't you'll bid more today, as opposed to Thursday, because, Thursday interest is going to be huge.*

*KP- So today, is, whatever we are doing we should do today, Arjun. Not, shouldn't wait for Thursday.*

*AA- You're also supporting the same view as everybody else, right?*

*KP- Yes. Yes.*

AA- *Excellent. Excellent. So, I am also on the same page with you, because there is a two tone disadvantage after we bid today. One is the entire market is going to know that we're heavy in the market again. And the second is the rate cut euphoria that they were going ahead that that rate cut is not going to be there. Right ?*

KP- *Yeah.*

AA- *So, basically we are going to have severe competition on Thursday. Severe competition. Not small competition, severe competition. Right. I have a, magical sixty Billion in my mind which I want to do, because this is a once in a life time opportunity with regards to rates and you agreed with the same yesterday as well. OK. So, I have a sixty billion that I have and I am very confident that the Government will do everything in their power to drastically bring the rates down, because, there is a lack of requirement as well.*

KP- *OK.*

AA- *Only disadvantage that we face that "Templeton" politically selling. I am a little concerned about Templeton selling. That is one of the concerns that I have, but that also there is a plan to mop them up.*

KP- *OK. OK.*

AA- *OK. There is a plan to mop them up and I'm game on. OK ?*

KP- *Yeah. Yeah.*

AA- *Now, today, we are going to have relatively very much lesser competition.*

KP- *Yeah.*

AA- *So our friend, our, our, the friend that we have are telling us bill (bid) forty today and twenty on Thursday, and worst case, even if we don't get ten on Thursday, you can mop ten in the secondary market, which is exactly what your strategy is as well.*

KP- *Yes.*

AA- *You told me the same thing, that you want to buy something in the secondary market. However, the secondary market you're not going to get a great rate that you're getting in the primaries as secondaries because you're in a big drop.*

KP- *Yeah.*

AA- *OK. I am talking about a fifty to a hundred big drop, once we get at the rate we're trying to bid at today. OK ?*

KP- *OK.*

AA- *Right. Now the game plan is, now you can interrupt any time you want Kasun. The game plan is there is a twenty five on offer today. There is a twenty six y on offer today. There is a thirty on offer today.*

KP- *Yeah.*

AA- *And there is a low four year. We are not interested in that four year.*

KP- *OK.*

AA- *We are only interested in twenty five, twenty six, thirty.*

KP- *OK.*

AA- *OK ? We have three scenarios here. One, two, three. First scenario we bill (bid) fifteen on the thirty. Fifteen billion. At the best rate, we've already got a clearance on the cut off of that.*

KP- *OK.*

AA- *We build (bid), uh, seven billion on twenty six or eight billion on twenty six. Whichever you like.*

KP- *OK.*

AA- *I'll leave that to you. And so if we're building (bidding) seven on twenty six then we build (bid) eight on twenty five or if we build eight on twenty six we bid seven on twenty five. Right ?*

KP- *OK.*

AA- *That's option number one you come up with a magical thirty.*

KP- *OK.*

AA- *Then, I have one, Option B is we build (bid) seventeen on the thirty, seventeen billion on the thirty.*

KP- *OK.*

AA- *Nine billion on the twenty six.*

KP- *OK.*



AA- *And ten billion on the twenty five. Or if you want to do it the other way around, if you are doing seven and eight, then two billion, two billion more, so it's a total of six billion more.*

KP- *Seventeen and six. OK.*

AA- *It's a total of six billion more than the original Option A of thirty which comes to thirty six billion.*

KP- *Seventeen, nine and eight?*

AA- *Seventeen, nine and ten.*

KP- *Ten. OK.*

AA- *OK. Option Three. Option three is what they are asking as to build (bid) is forty billion. The other four billion I leave it to your imagination to do that if you want. Your call.*

KP- *OK.*

AA- *I'll leave it to you'll. Then do you want to build (bid) thirty, thirty six or forty ? What do you want to do ? I will leave it to you? I'll come back to the rates.*

KP- *Today we shouldn't, leave any other day. [inaudible] Whatever we are doing we should do it today. We shouldn't wait for tomorrow.*

AA- *So you want to go for forty today ?*

KP- *Yeah, why if we are going to buy forty, then we should do that today not tomorrow. Or tomorrow or day after.*

AA- *Right. OK. We'll go for the forty today. If that's what you will feel, we will go for the forty today. Then other twenty, only thing that is going take place is the other tenors that are going to come out on Thursday is most probably a seven, a twelve and a twenty year. But we don't know whether the twenty year will come out or not. If a twenty year comes out I definitely want to take ten billion on the twenty year.*

KP- *OK.*

AA- *Even if we have to bid low, I'll take that ten billion on the twenty year. OK.?*

AA- *Right. The rate. The all important rate. Shall we start with the fifteens ?*

KP- *OK.*

AA- *I'll give you the exact rate. My, I'll. They're bringing the rate down. I wrote it and kept it at home. I'll tell it to you in a few minutes. But, on average, but the rate is that 14.80 or 14.90 if you put a magical ten billion one shot.*

KP- 14.90 ?

AA - *From Pan Asia. 14.90 or 14.80, I leave that to your imagination. OK ?*

KP- OK.

AA- *Right. Pan Asia one shot. I don't know whether Pan Asia will give it. If Pan Asia doesn't give it to us as one shot, then you put five billion which they've already agreed and they've given us and the other five billion you do through Perpetual, from fourteen seventy seven levels upwards. Mix and Match. You do a mix and match. Fourteen seventy seven or fourteen seventy eight levels or even, yeah, fourteen seventy nine levels upwards. OK ?*

KP- OK.

AA- *That is five and five. Then the other five billion, the other five billion, I will give you the rate at what to bid at. But this ten you take it as a given. This is what how you have to bid the fifteen year this ten.*

KP- OK.

AA- *Five billion fourteen ninety. and five billion at five billion Perpetual if they don't, if Pan Asia allows us to do one shot ten then you do one shot ten.*

KP- OK.

AA- *But your average needs to be a superstar average. I wanted a fifteen average. You're not going to achieve a fifteen average but at least the entire portfolio average this time should be at least fourteen sixty. That should be our plan.*

KP- OK.

AA- *Right. One disadvantage that we are facing, is that the private sector is going to be allowed to bid between 13 half and 14 half.*

### **Ringtone of another phone in the discussion**

KP- *හලෝ-----*

Lady- *ඒක ගන්නද?*

KP- *නැහැ නැහැ ගන්නේ නැහැ*

Lady- හරි දැන්.....

KP- හරි ඕකේ

Lady- .....

KP- සෙනසුරාදා

Lady- හවස ඉන්නවාද?

KP- හවස ඉන්නවා.----

Lady- ගන්න බැහැ කියලා කිව්වනේ ඔයා

KP- හරි ඕකේ

Lady- හරි පස්සේ බලමු.

KP- කෝල් කරලා බලන්න

**Back to the primary telephone call**

KP- අරුගේ ලයින් එක අපි ගැලව්වාද?

NS- නැහැ නැහැ හයිකලා.

KP- එස් එල් ටී එකෙන් ආවා ඊගේ

NS - මොනවද කියන්නේ

KP- මං හිතන්නේ ෆෝටින් නයිත්ටින් තමයි මට ඉස්සෙල්ලා කිව්වේ. *We are bidding 13 half and fourteen half.*”

35] Mr. Salgado identified the Audio Recording of the following telephone conversation [Serial No. 111088] between Mr. Kasun Palisena and Mr. Arjun Aloysius, which commenced at 9.34am on 29<sup>th</sup> March 2016

This telephone conversation is reproduced below using a Transcript prepared by the Officers assisting the Commission of Inquiry. This Transcript has been checked by listening to the Audio Recording.:

**“The subscriber you are calling is currently roaming in internationally. Please continue to hold if you wish to be connected.**

AA- Kasun.

KP- Yes, Arjun.

AA- Hi. So, I just got the EPF rates.

KP- Yeah.

AA- *EPF is putting 15 Billion.*

KP- *OK.*

AA- *They are putting 2026 at thirteen fifty. 2030 they are putting five... sorry. 2026 thirteen fifty five billion. 2030 thirteen sixty five five billion, and thirteen seventy five billion, OK ?*

KP- *OK.*

AA- *Right. Now basically the go ahead is that the government has said that they're going to state funds, will bid between maybe thirteen thirteen half, and the private funds can go from thirteen fifty to fourteen fifty guaranteed.*

KP- *OK.*

AA- *Any bid between thirteen fifty and fourteen fifty they will accept. OK ?*

KP- *OK.*

AA- *This is the unofficial word that got this morning.*

KP- *OK.*

AA- *Beyond fourteen fifty it's going to be tough but they will most probably accept it. So you have to make a very very very smart call, because as what we mentioned yesterday, nobody, this is a bonus. This is a gift that has been given to us. Nobody has, nobody ever thought they, if somebody told you a month ago rates are going to twenty you would have thought this is talking rubbish.*

KP- *Yeah.*

AA- *OK. This is an unbelievable gift, so its, I, I'm a person who may, miss, by, you know, a this thing, but you know you never miss it. You, you're always pinpoint accurate so, so you make the call. I'll only give you the direction. I'll only give you the guidance. Right ?*

KP- *OK.*

AA- *OK. So, you decide whether you want to bid 30 billion,35 or 40. That's your call.*

KP- *OK.*

AA- *The, according to our friends, from the powerful places the more that we bid the better it is.*

KP- *OK.*

AA- *So, I'll leave that to you. The guidance for bidding, two thousand and thirty. We'll start with two thousand and thirty. He wants us to go from thirteen fifty to fourteen fifty, five billion.*

KP- *OK.*

AA- *You bid it anyway you want to bid it.*

KP- *OK.*

AA- *But weight, uh, weight is more towards the fourteen ranges as opposed to thirteen fifty. So thirteen fifty small, small, small, small, then go high. OK.?*

KP- *OK.*

AA- *Fourteen fifty or fourteen ninety you call, that again your call, ten billion.*

KP- *OK.*

AA- *But one shot either a five or a ten should be at a higher rate from PABC. If they can do ten, well good for us. If they can't do ten, well, tell us to give us a five. And if they do us a five and you do the deal at fourteen ninety or fourteen eighty, you decide, either way it will be accepted.*

KP- *Arjun, there's already ninety billion then. Sorry, uh, twenty billion there.*

AA- *No.*

KP- *On the thirty year. No, two thousand and thirty, yeah.*

AA- *Thirteen fifteen, thirteen fifty to fourteen fifty, five billion.*

KP- *OK.*

AA- *And, fourteen eighty or fourteen ninety one shot ten billion.*

KP- *Ah, OK. Fourteen nine.*

AA- *That's a, that's a grand total of fifteen billion. But if we don't get one shot five billion, uh, ten billion from them then we do five billion under PABC and five billion under Perpetual at maybe ten basis points lower across the range. So that's, so, what I'm trying to say is that you're, the total we are bidding is fifteen billion for the two thousand and thirty.*

KP- *OK.*

AA- *OK ? So, one shot ten, we'll do at fourteen eighty or fourteen ninety.*

KP- *OK.*

AA- *But otherwise what we do is we'll do five billion one shot another five billion say we bid at fourteen ninety hypothetically then we'll bid fourteen seventy seven up to fourteen eighty eight Perpetual.*

KP- *OK.*

AA- *So, a grand total of fifteen billion.*

KP- *OK.*

AA- *If you want to be a little more adventurous put a two or three billion at your discretion at whatever rate between fourteen half to fourteen ninety. If you want to go more aggressive today.*

KP- *OK.*

AA- *OK.? Clear ?*

KP- *Clear.*

AA- *Then we are doing two thousand and twenty six. We're bidding eight to ten billion.*

KP- *OK.*

AA- *Eight to ten billion. We start off three billion between thirteen forty and fourteen fifty.*

KP- *Thirteen forty to fifty.*

AA- *Yeah, so the lower from thirteen level its lower and we load up on the fourteen level.*

KP- *Is the thirteen forty to fifty?*

AA- *Thirteen forty to fourteen fifty.*

KP- *Fourteen fifty. OK.*

AA- *Yes.*

KP- *OK.*

AA- *OK.?*

KP- *OK.*

AA- *Thirteen forty to fourteen fifty. Right ?*

KP- *Yeah.*

AA- *Then we have five billion, two plus three...*



KP- OK.

AA- *Two billion between fourteen sixty and fourteen sixty five.*

KP- OK.

AA- *And a three billion at fourteen sixty two to fourteen sixty seven.*

KP- OK.

AA- *Actually you're... Wrong, wrong, wrong, wrong. The three billion should be one shot. Fourteen seventy or fourteen sixty five. One shot three billion. For the two thousand twenty six.*

KP- *Sixty to seventy five range, three billion one shot?*

AA- *No, no, no, no, no. Like the way you're doing the fourteen eighty or fourteen ninety for the, uh, thirty year five billion or ten billion, this also that block big number should be one shot three billion. The, the highest we're bidding should be one shot three billion either through Pan Asia or Perpetual it doesn't matter, but ideally through Pan Asia. So for example, fourteen seventy we do three billion, or fourteen sixty five we do three billion. I leave it to you.*

KP- *Four... Pan Asia might not be able to do it, Arjun, if they bid, uh, the total number they can do, so far is five. They said they'll come back whether they can increase.*

AA- *OK. Fine. So, then we'll do it under Perpetual.*

KP- *Yeah.*

AA- *So, one shot, two thousand and twenty six, one shot, three billion at fourteen sixty five or fourteen seventy, you decide. OK.?*

KP- OK.

AA- *Then the other two billion, we'll do between fourteen sixty five and fourteen sixty eight. Other two billion. That you can divide hundred, hundred, [inaudible] two hundred two hundred like that.*

KP- *Sixty five to sixty eight.*

AA- *Yeah.*

KP- OK.

AA- *Right. But one shot three billion at fourteen seventy then one shot two billion you divide between this thing and we do another three billion between thirteen forty and fourteen fifty. Got it ?*

KP- Yeah.

AA- *OK ? So that's a grand total of eight. And if you want to bid another two billion or three billion you do it at your discretion whatever you want to do it. Whatever you want to bid.*

KP- OK.

AA- *Because I'm giving you now the full calculation for the thirty billion. I'm giving you a full calculation for thirty billion. If you want to go thirty five or forty you decide how you want to do it in that range.*

KP- OK.

AA- *Then twenty five. Twenty five.*

KP- OK.

AA- *Twenty five we start three billion.*

KP- OK.

AA- *Between thirteen seventy.*

KP- OK.

AA- *To fourteen fifty. Three billion.*

KP- OK.

AA- *Four billion.*

KP- OK.

AA- *Two billion one shot between fourteen fifty and say fourteen sixty, or fifty five. And then two billion one shot at fourteen sixty, one big number at fourteen fifty.*

KP- *Two billion, again?*

AA- *One shot, two billion at fourteen sixty.*

KP- *Fourteen sixty. So altogether seven there.*

AA- *Yeah, but if you want, you can put another two or three more, depending on your discretion on these ranges.*

KP- OK.

AA- *Right then twenty six. The twenty six, if we are bidding twenty five, we are starting at thirteen seventy then we should not start twenty six there. We must put some rationale. So what do you think? Twenty six ?*

KP- *Twenty six, start at fourteen?*

AA- *You want to start at fourteen? OK. Fine.*

KP- *Or twenty five, twenty six, both start at thirteen seventy.*

AA- *No. Don't put, there must be some difference so they don't think it's a this thing, there must be some difference.*

KP- *Thirteen eighty then ?*

AA- *OK. Fine.*

KP- *Shall we repeat, Arjun, everything ?*

AA- *So you know the ranges. Do the needful. Now I'm going to give you a task, which you'll do in the next 20 minutes. I want a grand average of fourteen sixty to fourteen sixty five average on this thirty five to forty billion. OK ?*

KP- *OK.*

AA- *You try to do that. Tell me different scenarios and come up. Now you know the guidance. Like the other day you gave me the final this thing, you decide how you want to do it. Right ?*

KP- *OK.*

AA- *The risk we are facing is thirteen half to fourteen half everything will be taken.*

KP- *OK.*

AA- *The biggest risk we are facing is fourteen fifty onwards is going to be tight but most probably taken. So, you decide whether you want to run that risk or whether you don't want to run that risk. That also I'll leave it to you.*

KP- *OK.*

AA- *Apart from the ten billion that we are, fifteen, is, that is a sure shot, we'll take that.*

KP- *OK.*

AA- *OK. but it's going to be a tough call. I just got an SMS from NSB, that they have, they are bidding eight billion in total, NSB. So MSB eight billion, EPF fifteen billion, you're talking about eight plus fifteen, twenty three. I don't know about the others. So, I think we're very, I'm very confident that today's thirty to forty will be accepted, but, you just come*

*back on the rates. Now you know the guidance and let me know. And I would like there to be averages between fourteen fifty five and fourteen sixty five, but again I'll leave that to you. If you think it's too ambitious. Ten basis points here and there I leave it to you.*

*KP- Can you give me fifteen minutes ? I'll come back to you with numbers then.*

*AA- You come back to me with the average plus what your suggestions are. And also remember I'm also going to tell you, but beyond fourteen half there is a risk we may lose it. Small risk but there is a risk. I must tell you that, no ?*

*KP- OK.*

*AA- Thirteen half to fourteen half everything will be accepted, but apart from the fifteen year that we have got special approval. But apart from that there may be a risk. OK ?*

*KP- OK.*

*AA- Right, now something else I want to share with you. This is a big auction for all of us. So, think very very hard. Sometimes, I go for the moon and I fall a little shorter. You have always been realistic. Remember this.*

*KP- Yeah.*

*AA- So, come. We will not get a chance like this again, Kasun.*

*KP- Yes Arjun.*

*AA- Anywhere between thirty and forty you make the call. Then we have Thursday, which we want to bid another twenty. If we bid forty then I want another twenty because I want a grand total of sixty in this run.*

*KP- OK.*

*AA- So whatever you feel that we can do on that. And then failing which we'll buy the rest on the secondary market. Come up with a strategy. We'll touch base again in fifteen minutes.*

*KP- OK. Sir.*

*AA- Thanks."*

36] Mr. Salgado said that he and Mr. Aloysius were in Singapore on 29<sup>th</sup> March 2016 attending an Investment Summit.

37] Mr. Salgado said that, when Mr. Aloysius and Mr. Palisena were conversing, he had gone out of the room. When learned Additional Solicitor General asked Mr. Salgado why he left the room he said *“I did not want to be part of the conversation that was going on and I stayed out of it”* and continued to say *“Because I understood that it is illegal things that is being talked and information that is being passed.”*

When the Commission of Inquiry asked the witness whether he had seen instances in the past, *“..... where Mr. Aloysius had some special information which you may not have had?”*, Mr. Salgado replied, *“What I did not have, yes.”*, and added, *“Sir it’s time this, (like this), he would (he would) know about decisions been taken. Which I did not know.”* He also added that they were decisions being taken *“at meetings, at say Bankers meetings.”*

38] In reply to learned Additional Solicitor General, Mr. Salgado said that, these Audio Recordings revealed that Mr. Aloysius had access to price sensitive and confidential inside information concerning Yield Rates and Investment Patterns related to the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016 and that Mr. Aloysius knew the likely “Cut Off” Rates.

39] In reply to learned Additional Solicitor General, the witness agreed that the telephone conversations between Mr. Aloysius and Mr. Palisena made it evident that Mr. Aloysius was *“running the show”*, by giving directions, advice and guidance to Mr. Palisena on how bids should be placed at the Treasury Bond Auction and also that Mr. Aloysius seems to have had information, *“received from multiple insiders”* and that this information had been used by Perpetual Treasuries Ltd when it placed Bids at the Treasury Bond Auction held on 29<sup>th</sup> March 2016.

40] In reply to the Commission of Inquiry, Mr. Salgado stated that, when he listened to these Audio Recordings, he had the impression that, Mr. Palisena had written down Notes of the instructions given by Mr. Aloysius during the telephone conversations.

41] In reply to the Commission of Inquiry, Mr. Salgado that, he had observed instances prior to 29<sup>th</sup> March 2016 also, when he had thought that, Mr. Aloysius had given instructions to Mr. Palisena which Mr. Palisena had written down and brought to the Dealing Room at Perpetual Treasuries Ltd.

42] In reply to a further Question from the Commission of Inquiry asking Mr. Salgado, who he thought had informed Mr. Aloysius of how much the EPF would bid for at the Auction to be held on 29<sup>th</sup> March 2016, Mr. Salgado stated that he thought that the information would have been given to Mr. Aloysius by Mr. Indika Saman Kumara.

In response to a Question from the Commission of Inquiry, *“Now I am asking you. Who was it in EPF who gave that information to AA according to your knowledge?”*, Mr. Salgado replied, *“To my knowledge dealer should give that information who is...”*. To the follow up question, *“Who is actually submitting the bids. Now that would be Mr. Saman Kumara?”*, the witness states, *“That is true.”*.

When Mr. Salgado was then asked, *“So, would you think from the conversation that Mr. Indika Saman Kumara who gave that information to AA.?”*, the witness replies in the affirmative. When the question was reiterated, *“Indika Saman Kumara who gave that information to AA.?”*, Mr. Salgado replied in the affirmative again and said, *“Yes. Sir.”*.

- 43] When the Commission of Inquiry asked Mr. Salgado from whom Mr. Aloysius would have obtained information with regard to the Cut Off Rates at which the CBSL would accept Bids at the Auction, Mr. Salgado replied, *“That he should get from the Central Bank, Sir.”* and stated that, the recommendations would have been from *“The Public Debt Department, Auction Committee, and everybody in that process would know the cut off and decide the cut off. So, it should be from one of the sources.”*.
- 44] When learned Additional Solicitor General suggested to Mr. Salgado, *“I put to you that Perpetual Treasuries was able to derive such phenomenal and unprecedented profits in the backdrop of the second highest profit maker deriving only 500 million Rupees in comparison with 11 Billion Rupees was due to the fact that throughout this period AA. received price sensitive confidential information which was used by Perpetual Treasuries to take decisions on how to bid both with regard to the volume of the bid and the yield rate?”*, the witness said, *“That’s true.”*.
- 45] Mr. Salgado produced the Document marked **“C328A”** which he said was maintained and updated by him on a Computer belonging to Perpetual Treasuries Ltd, which has been handed over to the Commission of Inquiry.
- 46] Mr. Salgado said that, he maintained and updated this Document marked **“C328A”** on the instructions of Mr. Palisena and that he had emailed this Document to Mr. Palisena.
- 47] Mr. Salgado said that, this Document marked **“C328A”** recorded Payments made by Perpetual Treasuries Ltd to Perpetual Asset Management Limited, Perpetual Capital Pvt Ltd and to W.M. Mendis & Co. Ltd, for onward payment to individuals who he had identified with the Code Names of “Charlie”, “Tango” and “Car”.



- 48] Mr. Salgado described these individuals as being *“informants”*.
- 49] Mr. Salgado stated further that these Code Names were used for purposes of preserving the anonymity of these *“informants”*.
- 50] Mr. Salgado said that, the Dealers of Perpetual Treasuries Ltd used the Code Name *“Charlie”* to refer to Mr. Udayaseelan and Mr. Indika Saman Kumara of EPF.

Mr. Salgado said that, Mr. Udayaseelan was the *“primary point of contact for Treasury Bond transaction”* between Perpetual Treasuries Ltd and EPF until around September 2015 and that, thereafter, Mr. Indika Saman Kumara was the *“primary point of contact”*.

- 51] Mr. Salgado stated that, he had *“realized”* that, *“the persons referred to as ‘Charlie’”* in the Document marked **“C328A”** *were receiving gratifications for the provision of confidential information about Treasury Bond dealings to Perpetual Treasuries Ltd”*.
- 52] Mr. Salgado said that, he was unaware of the identities of the persons referred to as *“Tango”* and *“Car”*, but that he believed *“they were also persons similar to the person referred to as ‘Charlie’”*.
- 53] Mr. Salgado said that, the Code Name *“Little Johnny”* was sometimes used to refer to Mr. Kavin Karunamoorthy of the National Savings Bank and also to refer to an unknown person at the Employees’ Trust Fund.
- 54] Mr. Salgado said that, the Code Name *“Wolverine”* was used to refer to Mr. Naveen Anuradha of the National Savings Bank.
- 55] Mr. Salgado identified the Recording of a Telephone Conversation that had taken place on 25<sup>th</sup> June 2016, involving Mr. Palisena, Mr. Udayaseelan and the witness. In that conversation, Mr. Palisena requests the witness to call *“Charlie”* and offer Rs. 1.25 Billion of the Treasury Bond Series maturing on 15<sup>th</sup> March 2015 at a Yield Rate of 9.50%. Mr. Salgado had, thereafter, made that offer to Mr. Udayaseelan and this transaction had been settled on the LankaSecure System on 29<sup>th</sup> June 2015.
- 56] When Mr. Harshana Nanayakkara, Attorney-at-Law, representing Mr. Indika Saman Kumara, suggested to Mr. Salgado that some person at the EPF other than Mr. Saman Kumara could have given the information to Mr. Aloysius with regard to the amounts that the EPF would bid for at the Auction, Mr. Salgado agreed that that was possible. When Mr. Salgado was whether, *“therefore it*

*could be Saman Kumara or it could be someone else above him perhaps who has the information.”, the witness stated “Perhaps, yes.” .*

57] In reply to Mr. Chanaka De Silva, Attorney-at-Law, representing Mr. Mahendran, Mr. Salgado said that, much of the alleged information conveyed by Mr. Aloysius to Mr. Palisena during the Telephone Conversations on 29<sup>th</sup> March 2016 had, in fact, been “*wrong*” and “*utterly wrong*” in the light of what had actually transpired prior to and at the Treasury Bond Auctions held on that day.

In this connection, when Mr. Chanaka de Silva, Attorney-at-Law, asked the witness, “*So Mr. Salgado would you agree with me that when you take these two telephone calls, either Mr. Aloysius has been imagining something or someone has fed him utterly wrong information?*”, Mr. Salgado responded, “*Yes.*”.

**Section 5.50 - Mr. Arjuna Mahendran**

Before Mr. Arjuna Mahendran commenced his evidence before this Commission of Inquiry on 19<sup>th</sup> September 2017, Mr. Romesh De Silva, PC, appearing on behalf of Mr. Mahendran, submitted that Mr. Mahendran is not a citizen of Sri Lanka and was not resident in Sri Lanka and that, therefore, he could not be compelled to give evidence before the Commission of Inquiry or to affirm to any Affidavits to be submitted before the Commission of Inquiry. Mr. De Silva contended that, Mr. Mahendran need not have responded to the Summons. Mr. De Silva went on to state that, however, Mr. Mahendran “*..... will testify in order to prove his innocence and to assist the Commission.*”. Mr. De Silva also submitted that, when Mr. Mahendran was asked to produce the Mobile Phones and Electronic Devices used by him, “*He was not legally obliged to do so, but in fact did so.*”.

In view of the fact that Mr. Mahendran was willingly giving evidence, the Commission of Inquiry saw no reason, at that stage, to state its views on the merits of the submission made by Mr. Romesh De Silva, PC to the effect that Mr. Mahendran could not be compelled to give evidence because he was not a citizen of this country and because he was not resident in the country.

However, in view of some subsequent reports in the Media the Commission of Inquiry made a Statement on the following day clarifying that, the fact that, the Commission of Inquiry had the power, in Law, to issue Summons requiring Mr. Mahendran to give evidence before the Commission of Inquiry and that Mr. Mahendran not being a Citizen of Sri Lanka and any claim that he may make that he is not resident within Sri Lanka, did not preclude the Commission from exercising this power to summon him.

In this connection, we note that, in **RATNAGOPAL vs. THE ATTORNEY GENERAL** [72 NLR 145], the appellant contended, *inter alia*, that he was not permanently resident

in Ceylon and was, therefore, not liable to be summoned under the provisions of the Commissions of Inquiry Act No. 17 of 1948. The Supreme Court held that, the appellant was liable to be summoned by the Commission of Inquiry Act. Privy Council agreed with the view taken by the Supreme Court that, “..... *no intention of permanently residing in Ceylon is necessary*” is required to make a person liable to be summoned under the provisions of the Commissions of Inquiry Act No. 17 of 1948.

At the commencement of his evidence, Mr. Mahendran stated that he had a BA (Hon) Degree in Philosophy, Politics and Economics from the University of Oxford and a Masters in Economics, also from the University of Oxford. Mr. Mahendran stated that he was employed as an Economist at the Mahaweli Authority of Sri Lanka from 1981 to 1982.

Thereafter, from 1983 to 1993 he had been employed at the CBSL as a Senior Economist. While at the CBSL, Mr. Mahendran had worked in the Department of Economic Research, the International Finance Division and the Money and Banking Division. He had also been one of the officers of the CBSL who were responsible for the implementation of the Automated Cheque Clearing House.

Mr. Mahendran said that, while in employment at the CBSL, he had been seconded to the Ministry of Finance where he served as Director, Fiscal Policy from 1991 to 1993. He had also served as the Secretary of the Industrialization Commission and had been a member of the Financial Sector Restructuring Program.

Mr. Mahendran said that he had been instrumental in the preparation of several Enactments, which were passed in 1990, to strengthen the Debt Recovery Process; he had also been one of the persons who initiated the setting up of the Commercial High Court and granting permission to Foreigners to invest in the Colombo Stock Exchange.

In 1993, Mr. Mahendran had left the Services of the CBSL and proceeded abroad where he served as a Director and Senior Economist of the “SG Investment Bank” in Hongkong, from 1994 onwards. We presume Mr. Mahendran was referring to the “Societe Generale SA”, which has a Regional Office in Hong Kong.

Mr. Mahendran had returned to Sri Lanka in 2001 and served as the Chairman and Director General of the Board of Investment from 2001 to 2004. Thereafter, Mr. Mahendran had travelled abroad again and had functioned as the Senior Economist of Credit Suisse in Singapore from 2004 to 2008. Mr. Mahendran said that, his duties in this post, included advising clients on investments in the Global Financial Markets.

Thereafter, from 2008 to 2013, Mr. Mahendran had served as one of the Managing Directors of HSBC Private Bank in Hong Kong. Mr. Mahendran said that, during his tenure at HSBC Private Bank, which handled “High Net Worth” clients and the investment of their private wealth in different forms of Investment Instruments across

the world, *“ranging from very simple stocks and bonds all the way to real estate and other much more complicated structures.”*

From 2013 to 2014, Mr. Mahendran had served as the Chief Investment Officer of Emirates NDB in Dubai, where Mr. Mahendran established an Investment Management Platform, for High Net Worth clients.

Mr. Mahendran also stated that he was a registered Investment Advisor in Hong Kong and Jersey and also a member of the Singapore Institute of Directors.

The relevant evidence of this witness is:

- 1] With regard to his expertise gathered especially in Singapore and in the UAE, Mr. Mahendran stated, *“So typically Your Honour, very large, wealthy clients of these banks have several billions of dollars in their private accounts, or their family offices. And what we do is we create what’s called a portfolio of different types of financial instruments to spread risk as you know, Your Honour, the financial markets are subject to volatility and fluctuations, and what we try do is spread the monies across as many different instruments as possible in as prudent a manner as possible to conserve their wealth to see that not just for one or two years but for generations, 50-100 years in some cases where families plan for the future and for the future generations that their wealth will be preserved through trust structures etc so that the continuity of their wealth will be ensured and that volatility in financial markets will not erode the wealth of particular families. So that was the specialization that we indulged in, Your Honour and for that we have several analysts looking at different types of financial instruments and markets, stock exchanges, and bond exchanges were just one set of instruments that we looked at.”*
- 2] On or about 09<sup>th</sup> January 2015 he had been invited, by the newly elected Government, to accept the position of Governor of the CBSL and he had accepted this offer.
- 3] Mr. Mahendran had been appointed as Governor of the CBSL, on 23<sup>rd</sup> January 2015, by His Excellency, the President.
- 4] Mr. Mahendran said that he had no Investments in Sri Lanka at the time he assumed office and that he has never personally invested in Bonds issued by the Government of Sri Lanka.
- 5] When Mr. Romesh De Silva, PC asked Mr. Mahendran whether, at the time he was appointed Governor of the CBSL, he was *“familiar with the internal procedures of the Central Bank,”* Mr. Mahendran replied, *“Yes. My Lord. I have worked for ten years, between 83 and 93 in the Central Bank. And I sat several*

*efficiency bar exams got through at first shy. So, I think I was reasonably aware of the procedures and the internal manuals etc.”.*

- 6] Mr. Mahendran said that when he joined the CBSL, Mr. Warnasena Rasaputra was the Governor of the CBSL. Thereafter, Dr. Neville Karunatileke had been appointed as Governor in 1988 and had continued to serve as Governor, at the time Mr. Mahendran left the services of the CBSL, in 1993.

Mr. Mahendran said that Dr. Warnasena Rasaputra and Dr. Neville Karunatileke were *“very hands on Governors”* and that *“there was a lot more walking about and corresponding [communicating] with each other verbally across different rooms and Divisions. And certainly those two Governors used to walk around and look at what was going around in different Departments.”.*

- 7] Mr. Mahendran said that, he had commenced work as Governor on 26<sup>th</sup> January 2015 and that he was greeted by the staff of the CBSL.

At that time, he had addressed the staff of the CBSL and, *inter alia*, requested the staff to assist him to take the CBSL to greater heights and stated that, *“I told them that in order to, since I knew many of them, since I worked with them about 20 years prior, I told that I had an open door policy and they could walk into my room whenever they wanted. Because, I wanted to assimilate from them a knowledge of where the current activity of the bank lay and also I am very keen on knowing how we could improve things.”.*

- 8] When Mr. Romesh De Silva, PC asked Mr. Mahendran what his understanding was in respect of the issue of Treasury Bonds at Public Auctions, Mr. Mahendran responded stating: *“The public auctions are situation of where the signaling of the intention of the Government to raise a certain sum of money is advertised publicly through the media and through other forms of media through the newspaper media etc., to the public, to ensure as wide participation as possible and to ensure that there is no discrimination or restriction in terms of the accessibility to the distribution of that debt and more importantly to establish that through this wide participation, the issuance of those bonds elicits a pricing of financial instruments which is reflective of what the general public expects of the economy and the economic aspects of the country in the future going forward.”.* In response to a further question by his counsel whether, *“Also, the public auction will serve to be an indicator of the money market and the confidence the people have in the Government of the day?”*, Mr. Mahendran stated, *“Precisely, Your Honour.”.*

- 9] When Mr. De Silva asked Mr. Mahendran what his views on “Private Placements” were, Mr. Mahendran’s response was: *“Private placements, Your Honour are transactions between two parties which are outside of the public*



*gaze and which involves some form of negotiations between those two parties which nobody else is privy to and results in a pricing of an instrument or the terms and conditions on which that instruments transfers between the two negotiating parties. Outside of any market related norms. And this means that such transactions have to be given an added level of scrutiny. Most major international financial markets in which I have dealt. Private auctions are subjected to very strict rules and procedures which ensure that they do not distort the operation of the normal market where transactions are made in the public gaze.”.*

In response to the question, “Now apart from that a private placement is somewhat akin to a private contract between the issuer of the bond and the issue?”, Mr. Mahendran replied in the affirmative.

To the further question, “So, that in this particular case, private placement of a bond, the Central Bank, the Central Bank uses discretion on whom to grant the private placement to, the amount of the private placement and the rate”, Mr. Mahendran replied, “Exactly, Your Honour. Particularly, the choice of who the Central Bank gives the private placement is not subject to any rules or restrictions as far as I am aware.”.

- 10] When Mr. Romesh De Silva, PC asked Mr. Mahendran whether, at the time he was appointed the Governor at the CBSL, the policy of the Government was in favour of Public Auctions as the “preferred option” or the “preferred methodology”, Mr. Mahendran replied, “When I entered the Central Bank Your Honour, I was informed that the dominant method of issuing Government bonds, Treasury Bonds was through the method of private placement. And I queried as to why this was the case. Because this was clearly, not in keeping with norms I observed in several other emerging markets, even our neighbouring markets in this region.”. Mr. Mahendran stated that, he “immediately engaged in a very detailed discussion about this system, with other senior officials, the Deputy Governors, the Assistant Governors, the Head of Department to find out why this was the case.”. Mr. Mahendran went on to add that, in early 2015, almost the entirety of the Government’s Revenue was used to service the existing Debt Portfolio and that there were no funds left for other development activities, which meant that further Debt had to be raised to fund the development agenda and other activities of the Government. He stated that, in these circumstances, “So my suggestion was there was sufficient funding from my assessment in the private sector of the country which could be mobilized, reasonably quickly, to meet the Government’s borrowing needs but to ensure that happened we had to move away from this rather closed system of private placements. Where we were depending entirely on captive sources and selected private sources at the discretion of the Central Bank dealers which was not yielding large amounts of money corresponding to the needs of the



*Treasury and move to a more public system whereby signaling the desire of the Government to borrow larger amounts of funds, I was certain we would be more successful.”.*

11] When Mr. Romesh De Silva, PC asked Mr. Mahendran whether, by the end of January 2015, he had discussed, with the Government, the relative merits and demerits of issuing Treasury Bonds at Auctions and by way of accepting Direct Placements. Mr. Mahendran replied in the affirmative. Mr. De Silva then asked Mr. Mahendran whether it was *“the preferred the policy of the Government that Treasury Bonds were sold by way of Auctions”* and Mr. Mahendran replied, *“I was very clearly told by the Honourable Prime Minister and others. Your Honour, that the new Government was committed to transparency. And they said that I should ensure that all procurements of the Central Bank should be done in a transparent manner. Whether it was a procurement of treasury bonds on behalf of the Government or the procurement of any other equipment for the Central Bank etc. that the new norm has to be transparent.”.*

12] Mr. De Silva then asked Mr. Mahendran whether, in his view, Auctions were preferred over Direct Placements and he replied in the affirmative.

Mr. De Silva then asked whether this reflected the Government Policy at the time. Mr. Mahendran stated, *“Yes, Your Honour, I gathered from conversations with Senior Ministers in the Government that they all preferred, that as the preferred choice of issuing Government bonds.”.*

13] Mr. Mahendran went on to say that, the Operational Manual of the PDD states, *“in plain black and white that bonds should issued by far as possible by auction.”.*

14] Thereafter, Mr. Mahendran said that when he assumed office as Governor on 26<sup>th</sup> January 2015, *“I think my first task was really to try and quickly as possible assimilate as much information as possible from the staff, from the Senior Management of the bank on what they felt about the bank. Because there were several issued that I had to read in the media over the years, about several shortcomings. But, I would say the most worrying thing that confronted me was that Central Bank had made losses. Large losses in the years 2013 and 2014, the Central Bank has a calendar year, its reporting year. And in 2014 from the numbers that I got from the Chief Accountant, I believe that he indicated that it was over 39 billion rupees of losses. Now, Your Honour, this is rather shocking. Because the Central Bank usually it can’t make [lose] money. They have a license to print money. Can’t make losses. Because they have a license to print money. So this show that there’s something pretty rotten at the heart of the bank. And I wanted to get a, grip in that very fast.”.*

- 15] Mr. Mahendran stated that, soon after 26<sup>th</sup> January 2015, he started to familiarize himself with the workings of the CBSL and found that there was a need to *“restructure the workings of the Central Bank.”*

In this connection Mr. Mahendran said that, he discussed this issue with the three Deputy Governors and some staff and, with their help, identified that there were instances where conflicts of interest arose between the subjects assigned to the Deputy Governors and that, therefore, it was necessary to erect *“Chinese walls”* to reduce the possibility of a conflicts of interest in those instances.

As an example, he said that, a *“Chinese Wall”* had to be erected between the Department of Domestic Operations Department which managed Interest Rates and the Department of Economic Research Department which managed Monetary Policy. As another example, Mr. Mahendran identified the need to separate the EPF which was a dominant player in the Public Debt Market, from the PDD. He stated that, he found that some of those functions were handled by the same Deputy Governor.

He also stated that it was necessary to restructure, in order to improve the functioning of the CBSL and to place more focus on economic development, outreach of the Banking Sector, Micro Finance Institutions and other types of SME funding and the development of the regionalization of the CBSL.

Mr. Mahendran stated that, with a view to achieving these objectives, he changed the structure of the *“Clusters”* of the CBSL, which had a Deputy Governor in charge of each Cluster. He stated that he established the three Clusters titled, the *“Policy Advisory Cluster”*, the *“Financial Regulation and Development Cluster”* and the *“Capacity Building Cluster”*.

Deputy Governor, Weerasinghe was placed in charge of the *“Policy Advisory Cluster”*, Deputy Governor Samarasiri was placed in charge of the *“Financial Regulation and Development Cluster”* and Deputy Governor Silva was placed in charge of the *“Capacity Building Cluster”*.

- 16] Mr. Mahendran stated that, he effected several transfers and reallocations of duties in order *“to restructure the Bank to be more operationally effective, to avoid these large losses that had occurred. And to see that the functioning of the bank as a whole was done in an expedient manner. So the human resource aspect of it was handled through the regular rotation of staff.”*

Mr. Mahendran said that, there were officers of the Hon. Attorney General's Department advising the CBSL on a regular basis and that these officers had not advised against these transfers and reallocations of duties.

- 17] With regard to the Treasury Bond Auction held on 27<sup>th</sup> February 2015, Mr. Mahendran stated that he was aware that a sum of Rs. 13.55 billion had to be raised on 02<sup>nd</sup> March 2015.
- 18] Thereafter, Mr. Mahendran referred to the “Breakfast Meeting” held at the CBSL in the morning of 26<sup>th</sup> February 2015, which was attended, *inter alia*, by Hon. Ravi Karunanayake, MP, the then Minister of Finance, Hon. Kabeer Hashim, MP, the then Minister of Highways and Mr. Malik Samarawickrema, then an Advisor to the Hon. Prime Minister.
- 19] Mr. Mahendran then produced an undated letter marked “**A22**” which has been issued by Hon. Ravi Karunanayake, MP and which states:

*“To whom it may concern*

*Governor Central Bank*

*I write to confirm that I, together with my Ministerial colleagues, Hon. Kabeer Hashim and Hon. Malik Samarawickrema met the Governor, Central Bank of Sri Lanka on the 26<sup>th</sup> of February 2015. At the said meeting we requested the Governor to raise a sum of LKR Seventy Five Billion within a months’ time for urgent road construction work which had come to a standstill due to lack of funds.”.*

Mr. Mahendran stated that, in June 2016, he had requested the then Minister of Finance to issue this letter, since Mr. Mahendran was required to give evidence before the COPE Committee of the 8<sup>th</sup> Parliament.

However, we note that though, this undated letter refers to a request made to the Governor concerning the raising of Rs. 75 billion within a month, Hon. Kabeer Hashim, MP, Hon. Malik Samarawickrema, MP and the three Deputy Governors Dr. Weerasinghe, Mr. Silva and Mr. Samarasiri stated, in their evidence, that, no such request had been made at this Meeting.

- 20] Mr. Romesh De Silva, PC then asked Mr. Mahendran whether the “*auction on the 27<sup>th</sup> of February took place in that background?*” and Mr. Mahendran replied in the affirmative.

Mr. Romesh De Silva then went on to ask Mr. Mahendran, “*so it was relevant to place to have this place that evidence that the auction took place in the background of the need of the government to raise 75 billion rupees within a month?*”, Mr. Mahendran replied again in the affirmative and agreed with his counsel that, “*this was an important part of the evidence.*”.

- 21] Mr. Mahendran then stated that, as set out in the Daily Cash Flow for the month of March prepared by Department of Treasury Operations and sent to the CBSL, a “*stunningly*” large amount of Rs. 172 billion was required in March 2015 and went on to state that, the Secretary to the Ministry of Finance had informed him verbally about a shortfall in January and February 2015.

Mr. Mahendran stated that, he was concerned that the Government would face a “*financial crunch*” unless, “*something drastic was done.*”.

Mr. Mahendran went on to state, “*I felt that there was a need to signal to the market in a prudent manner that the Government needed to move towards a more market friendly method of raising its funding and there should be regular interaction between the markets and the Central Bank in this endeavor. Because what I found was for most of the 2<sup>nd</sup> half of 2014, auction activity, particularly for Treasury Bonds had virtually ceased. And this I thought was a rather negative development and I wanted to reverse that.*”.

When Mr. Romesh De Silva, PC asked Mr. Mahendran, “*So would you consider treasury bonds or public auctions one way of signaling to the market and inspiring confidence in a market to invest in Treasury Bonds ?*”, Mr. Mahendran replied, “*Yes Your Honour, extremely important because that’s the way the market conveys to the Central Bank and to the government what its intentions are in terms of the level of Interest Rates and its ability to fund the government funding requirement.*”.

- 22] Mr. Mahendran stated that this was the background in which a 30-year Treasury Bond was offered, to the value of Rs. 1 billion, at a Coupon Rate of 12.5% *per annum* at the Auction held on 27<sup>th</sup> February 2015.

When Mr. Mahendran was asked as to why only Rs. 1 billion was offered when a sum of Rs. 13.55 billion was required on 02<sup>nd</sup> March 2015, he stated, “*I am not sure Your Honour, why that was done but I certainly had a discussion with the relevant Deputy Governors and the Public Debt Department officials prior to the advertisement going out where we discussed the manner in which the Public Debt Department was going to raise this sum of Rs. 13.55 billion for the 2<sup>nd</sup> of March. And when this was suggested to me they were going to advertise an auction for one billion I asked them why such a low amount, given that the requirement was 13.55 billion. And their answer to me was if you advertised a higher number the market would expect the government to borrow aggressively and therefore Interest Rates would rise. But to me this still did not answer my question effectively but since I was new I gave them the benefit of the doubt and they said that could efficiently raise the balance funding through private placements. Which again I was not terribly happy with but I asked them to proceed and show me that they could do it that way.*”.

He added that *“the Public Debt staff told me that even though we advertised one billion that we would have bids significantly in excess of that number and that we could accept those monies that were bid at the auction over and above the one billion that was on offer.”*, and that *“the department officials said that, that was their preferred method of raising this money.”*

23] With regard to the background to the Treasury Bond Auction held on 27<sup>th</sup> February 2015, we set out some of the Questions asked by Mr. Romesh De Silva, PC and Mr. Mahendran’s Answers:

*“Q: So, in that background an advertisement was placed for a public auction of a Treasury Bond for one billion rupees at the rate of 12.5 ?*

*A: Yes. Your Honour.*

*Q: Now when the, I am leading him at this point but this is already in testimony just put in, so on the date on the 27<sup>th</sup> February when the public auction was held you were aware that the government wanted 13.55 billion by the 2<sup>nd</sup> of March next...?*

*A: Yes. Your Honour.*

*Q: You were also aware that the Ministers had in their mind or wanted a sum of 75 billion within a month ?*

*A: Yes. Your Honour.*

*Q: You were also aware that a sum of 172 billion was needed in March of 2015 ?*

*A: Yes. Your Honour. I might add that I expected the Secretary to the Treasury send me a amended cash flow. Thereafter after that meeting on 26<sup>th</sup> but that amended cash flow only came at the end of April.*

*Q: Now somewhere on the 27<sup>th</sup> before, on the morning of the 27<sup>th</sup> were you aware that there was a attempt to collect money by way of private placements that is between 24, 25<sup>th</sup> before 20<sup>th</sup> and 21<sup>st</sup> February and the 27<sup>th</sup> of February ?*

*A: I was informed of that Your Honour about noon on the 27<sup>th</sup>.*

*Q: And what was the result of that attempt to raise this money by way of private placements ?*

A: *I was informed, Your Honour, that for the whole of that week to that point that was noon of Friday the 27<sup>th</sup> that the department had only been able to raise 3.4 billion by way of direct placements.*

Q: *So you are aware you were told that the department had tried to raise money by way of private placements for about a week prior to 27<sup>th</sup> and they were only able to raise how much ?*

A: *3.4 billion.”.*

24] Next, with regard to the events that took place at the Meeting of the Market Operations Committee on 27<sup>th</sup> February 2015, Mr. Mahendran stated that the Balance of Payments Data for the month of January 2015, had been released on 24<sup>th</sup> February 2015 and that this Data suggested that Sri Lanka's Reserves had reduced from USD 8.2 billion to USD 7.2 billion.

Mr. Mahendran stated that a journalist from Reuters had inquired about this drop in Reserves and that, Mr. Mahendran had told him that, arrangements were being made to obtain a USD loan from the IMF and that the position would stabilize soon. Mr. Mahendran was referring to the News Report marked “**AM23**”, which reflects this position.

Mr. Mahendran went on to say that, he had noticed that, on the 26<sup>th</sup> evening there had been a drop of 50 cents in the LKR-USD Forward Exchange Rate and that he was concerned about this development. He had also realized that, the Net Open Position in Foreign Exchange maintained by Commercial Banks had increased on 26<sup>th</sup> February 2015, which suggested that the Commercial Banks were holding on to Foreign Currency in the expectation of gaining profits from the devaluation of the Sri Lanka Rupee.

Mr. Mahendran said that he was concerned about these developments and had tried to contact Deputy Governor, Weerasinghe on the 27<sup>th</sup> morning. When he did so, Mr. Mahendran had been told that, Deputy Governor, Weerasinghe was at the meeting of the Market Operations Committee. Mr. Mahendran said that he proceeded to that meeting in order to meet Deputy Governor, Weerasinghe.

Mr. Mahendran said that, when he went to the meeting of the Market Operations Committee, he met Deputy Governor Weerasinghe and said, *“So I told him about this Reuters news article which had appeared in all the financial press that morning. And I suggested to him that I had concerns about the currency going into a free fall because of a 50 cent drop on the forward rate and this accumulation of net open position by banks was not desirable. So I discussed with him for about 5 minutes along with other officials who were there on what measures we could take to see that the rupee did not devalue significantly that day. And we basically in the course of the discussion came to the view that*



*there was a lot of rupee liquidity in the money market. the short term money markets at that point and it would therefore be desirable to immediately have a, what we call “open market auction” to absorb that liquidity but at the same time I felt there was a need to raise Interest Rates. So that the price of borrowing rupees would rise and that would then make it stabilize against the US Dollar.”.*

*In response to a question from his Counsel, “So at that meeting or together with this gentlemen did you decide that the Interest Rates should be increased?”, Mr. Mahendran replied, “Yes, Your Honour, the, well, to put it more technically there is something called the penal rate which was in force at that point where banks who park their funds with the Central Bank were only paid 5% on those excess funds. Whereas the on, 3 days of the month they could obtain 6.5% that was a special measure that was adopted sometime in September 2014 along with the decision by Monetary Board at that time to cancel open market auctions. Now what had happened in early October few days after that Monetary Board meeting was that the open market auctions which have been cancelled by the Monetary Board were reinstated. So in a similar vein when I discussed this with the Dr. Weerasinghe, he suggested that we could remove the 5% penal rate and then revert to the normal rate of 6.5% for banks to park their money with the Central Bank. So that was not effectively a tightening of Monetary Policy it was more of a removal of a special measure that had been in place to discourage banks from putting their surplus funds with the Central Bank.”.*

- 25] *Mr. Mahendran was then asked by his Counsel whether he was aware that the Monetary Board had taken a decision on this matter prior to 27<sup>th</sup> February 2015. Mr. Mahendran replied, “Yes Your Honour, in fact I think for two Monetary Board meetings prior to the 27<sup>th</sup> of February 2015 the Monetary Policy Committee had suggested that we remove this penal rate but at the same time they were suggesting that we reduce the standing deposit rate that is offered by the Central Bank which was 6.5% to 6% and I was reluctant to do that because market Interest Rates, and the call money market Interest Rates, and the prime lending rate etc. were rising because of increased bank lending activity. So it seemed to me a bit of a contradiction for us to reduce policy rates even if we remove the penal rate at a time when market rates themselves were rising.”.*

*Mr. Romesh De Silva, PC asked Mr. Mahendran whether he realized that the decision taken on 27<sup>th</sup> February 2015, with regard to the removal of the Two-Tier Interest Rate Structure of the overnight Standing Deposit Facility “was in some way contrary to the decision taken by the Monetary Board”, Mr. Mahendran replied, “it could be interpreted that way Your Honour.”.*

*Mr. Mahendran was then asked whether he had discussed this issue with Deputy Governor, Weerasinghe. Mr. Mahendran replied in the affirmative and*

added, *"He told me we could get it ratified at the next meeting on the Monetary Board."* Mr. Mahendran further stated that, the decision taken on 27<sup>th</sup> February 2015, was subsequently ratified by the Monetary Board on 06<sup>th</sup> March 2015 and that Monetary Board did not find fault him for having taken this without the prior approval of the Monetary Board.

Mr. Mahendran stated that, he considered it *"urgent"* and *"necessary for the economy of the country."* to remove the Two-Tier Interest Rate Structure of the overnight Standing Deposit Facility, on 27<sup>th</sup> February 2015.

When the Commission of Inquiry asked Mr. Mahendran whether he was a member of the Market Operations Committee, he said he was not.

When the Commission of Inquiry asked Mr. Mahendran, *"Now are you clear that the decision to remove the penal rate as it were was your decision ?"*, he stated, *"I suggested it to the MOC, Your Honour, to considerate [consider it] and I definitely take responsibility because I suggested it and they concurred with it but they discussed it."* When the Commission of Inquiry asked, *"So, Mr. Mahendran you take full responsibility for that decision ?"* he replied in the affirmative and to the further Question, *"That's your decision ? The MOC concurred."*, Mr. Mahendran replied, *"Concurred, Your Honour. But I approved it."*

- 26] In connection with Mr. Mahendran's two visits to the PDD on 27<sup>th</sup> February 2015, when Mr. Romesh De Silva, PC asked Mr. Mahendran, *"Now you say you went down to the Public Debt Department. How many times did you go down to the Public Debt Department ?"*, Mr. Mahendran replied, *"I went twice Your Honour. First I went at 11 am which was when I was told that the auction would finish and I thought that the results would be available instantaneously. So I went down from my office at 11am and I was told by the Superintendent of Public Debt that the results would only come about one hour later. So I walked around the department and met all the staff which I was doing in several other departments and then I came upstairs back to my office floor for a meeting and I went down again after noon."*

In reply to the Question, *"Now did you go alone or did you go with anybody else to the Public Debt Department ?"*, Mr. Mr. Mahendran said, *"On the first occasion I went with minor employee in my office. Your Honour and a Security Officer who is assigned to me who shadows me all over the place. The second occasion I went with two Deputy Governors and the minor employee and the security officers were there."* . Mr. Mahendran added that, the two Deputy Governors were Deputy Governor, Weerasinghe and Deputy Governor, Silva.

Mr. Mahendran stated that, during the Auction, Bids are received on the Electronic System and there is no *“physical bidding”*.

When his Counsel asked whether there was any *“advantage gained by going to the, walking anywhere near the Public Debt Department”* Mr. Mahendran replied, *“Advantage is gained in terms of knowledge of the Auction”* and went on to say, *“My purpose in going there was just to see the results when they came out.”*

When Mr. Romesh De Silva, PC asked *“And those results could have been seen by you sitting in your room or even in your home ?”*, Mr. Mahendran replied in the affirmative, When Mr. De Silva then asked, *“ So going down physically to that department gives you no particular advantage in terms of knowing the result or knowing anything else ?”*, Mr. Mahendran replied, *“No, Your Honour. They don’t give any advantage except that I was also keen to find out what the physical layout of the Public Debt Department looked like in terms of the usual safeguards that you have about dealing rooms etc. the security, CCTV cameras, all that sort of paraphernalia. So I just want to see myself what situation was like it’s my first auction.”*

- 27] Mr. Mahendran stated that, during his second visit to the PDD, he was *“shown”* the Bids Received Sheet about five to ten minutes after he had entered the PDD.

When Mr. Romesh De Siva, PC asked *“So at that time when you were shown, you saw the identity of the bidders and you saw that there were bids for approximately up to approximately 20 billion ?”*, Mr. Mahendran replied *“I was informed verbally.”*

Mr. Mahendran said that, when he saw the Bids Received Sheet, *“My reaction was that, it was one of relief because when I asked the department to hold an auction they seemed quite pessimistic about raising funds through this auction for a long term bond. So I was in a sense relieved that there had been such a big interest relative to the amount advertised in terms of the how much had come in in the form of the bids.”* He added that, *“.... it meant there was appetite from the private sector for obtaining government treasury bonds through the method of auctions.”*

- 28] When Mr. Romesh De Silva, PC asked Mr. Mahendran, *“Now then what was your reaction, did you want to accept this 20 billion or did you not want to accept that 20 billion ? What was your reaction ?”*, Mr. Mahendran replied, *“In the light of the prior day meeting where there was. This not funding requirement that was indicated to me by the Hon. Minister of Finance and the Hon. Minister of Highways. That was in the back of my mind and I was expecting that they would*

*send the amended cash flow so I did discuss with the Superintendent of Public Debt. That there might be a additional cash flow requirement coming through. So in that context I asked her whether there was a possibility of us accepting the entire 20 billion that she indicated I had come in the form of bids.”*

Mr. Mahendran replied in the affirmative when his Counsel asked him whether Mr. Mahendran’s “*preference was to accept the total 20 billion.*”.

Mr. Mahendran stated that Ms. Seneviratne, the Superintendent of Public Debt had “*immediately said that it was not practical because some of those bids were at ridiculously high rates of interest which were, she called “Dummy Bids”. It was the first time I had heard of the concept. She said there were these so called “Dummy Bids”. She along with the two Additional Superintendents. And therefore it would not be prudent to accept the entire amount. So she said that we should go for a lower amount.*”.

Mr. Mahendran said, “*Well, we had a discussion on this for a few minutes. But the number that seemed reasonable when I discussed with the staff was around 10.058 billion for the simple reason that it meant that the highest yields that would be on offer would be 12.5% which coincided with the coupon that was advertised for that bond and the weighted average yield rate which the government would pay for the entire auction would be 11.73% which was two basis points lower than the previous 30 year bond auction which was held in late May 2014 where the yield for 2 billion rupees had been 11.75%.*”.

29] Mr. Mahendran was then asked who would take the final decision with regard to the amount of Bids that were to be accepted at this Auction.

We set out below Mr. Mahendran’s evidence on this matter in response to Questions asked by his counsel:

“Q: *Now the final decision to raise this to 10 billion was in whose hands?*

A: *In the Tender Board Your Honour.*

Q: *Now the Tender Board is an autonomous body ?*

A: *Yes, Your Honour.*

Q: *: And the Tender Board has to act independently ?*

A: *Yes, Your Honour.*

Q: *Now you are not the member of the Tender Board ?*

A: *No, Your Honour.*

Q: *So the decision to raise, to accept bids up to 10 billion is a decision of the Tender Board ?*

A: *Yes, Your Honour.*

Q: *Now prior to the decision taking place by the Tender Board is there a recommendation from anybody else ?*

A: *Well I think the Public Debt Department produces what's called and "option sheet" which is circulated to members of the Tender Board and they have to pick from 6 and 7 options in terms of what their decision will be.*

Q: *Now did the Public Debt Department submit such an "option sheet" ?*

A: *Not to me, Your Honour, but to, I believe to the Tender Board, yes.*

Q: *So as far as you are concerned you didn't see the option sheet ?*

A: *No. Your Honour.*

Q: *So there was a recommendation from the Public Debt Department that offers up to 10 billion approximately be accepted ?*

A: *Yes, Your Honour.*

Q: *And the Tender Board accepted the offers up to 10 billion ?*

A: *10.058 to be precise, Your Honour.*

Q: *Now that was a decision of the Tender Board after a recommendation made by the Public Debt Department ?*

A: *Yes, Your Honour."*

30] Mr. Mahendran was then asked by his Counsel whether he played a part in the decisions taken by the Tender Board and he said he did not.

We set out below Mr. Mahendran's evidence on this matter in response to Questions asked by his counsel:

"Q: *You did not play a part in the recommendation made by the Public Debt Department?*

A: *No, Your Honour.*

Q: *Nor were you are member of the Tender Board?*

A: *No, Your Honour.”.*

31] Mr. Mahendran added that, decisions of the Tender Board are sent to the Governor and said that, the Governor has the “*power to veto*” a decision if he did not fully agree with the decision. In the present instance, Mr. Mahendran stated that he was “*Fully in agreement*” with the decision taken by the Tender Board.

32] In response to a Question from his counsel whether, “*prior to the meeting of the Tender Board you also, your views were known that you wanted bids up to 10 billion to be accepted?*”, Mr. Mahendran replied “*Yes, Your Honour.”.*

33] The Commission of Inquiry then asked Mr. Mahendran, “*Did you make your views known to the Tender Board?*”. The relevant Questions asked by the Commission of Inquiry and Mr. Mahendran’s Answers are reproduced below:

“Q: *Did you make your views known to the Tender Board?*

A: *Not to the Tender Board, Your Honour. Only to the staff of the Public Debt Department and two Deputy Governors who accompanied me there.*

Q: *Did you make have your views known to other Deputy Governor?*

A: *Yes, well, he made a phone call to me subsequent to my leaving the bank for lunch.*

Q: *Did you direct the Tender Board to make the decision ?*

A: *No. Your Honour.*

Q: *Did you bulldoze a Tender Board to make your decision?*

A: *No. Your Honour.”.*

34] Mr. Romesh De Silva, PC then asked Mr. Mahendran whether he agreed with the Auditor General’s computation of the estimated loss resulting from the Auction held on 27<sup>th</sup> February 2015.



Mr. Mahendran replied, *“No, not at all, your Honour”* and added that the Auditor General’s estimate of alleged losses is based on several assumptions.

Mr. Mahendran said that, *“the principle assumption is that money could have been raised in large amounts through private placements at the same average rates that was bid at the auction for one billion rupees.”*

Mr. Mahendran said that, the second assumption was that, *“the Central Bank would not use it’s well established practice of offering what are called, “volume based incentives” to primary dealers to come and accept private placements from the dealers of the Public Debt Department.”*

Mr. Mahendran stated that, the third assumption was that, *“the government should never accept bids for bonds where the offer is below the par value of the bond. There again I am not aware of that practice being the norm in any market that I have dealt with.”*

Mr. Mahendran stated that, the Auditor General had made *“a glaring mistake”* and that the Auditor General’s computations were *“not correct”*.

- 35] Mr. Mahendran said that he had nothing to do with the purchase of Treasury Bonds by the EPF and that he did not participate in the decision-making process relating to the purchase of Treasury Bonds by EPF in the Secondary Market.

Mr. Mahendran went on to state, *“I was provided monthly statements in terms of the sales of bonds by the EPF during that period, Your Honour, and those documents provided to me in the Monetary Board suggested that all those bonds were sold at a profit.”*

- 36] Mr. Romesh De Silva, PC then asked Mr. Mahendran several further Questions with regard to whether Mr. Mahendran had knowledge with regard to the manner in which Treasury Bonds issued at Primary Auctions during the period from February 2015 to March 2016 had been transacted on the Secondary Market.

We set out below some of those Questions and Mr. Mahendran’s Answers:

*“Q: Now specifically I am asking, do you know or do you not know whether any bonds bought from February 2015 to March 2016, whether they were sold to the EPF, do you know or do you not know?”*

*A: Again in those same reports that were produced to the Monetary Board, Your Honour, there was evidence that some bonds which had been issued after February 2015 had been purchased by the EPF.*

Q: *Right. But you did not participate in any way or manner in the decision making of the EPF to purchase those bonds ?*

A: *No, Your Honour.*

Q: *Now, you refer to the fact that you saw certain reports ?*

A: *Yes, Your Honour.*

Q: *Those reports suggested that the EPF bought bonds in the secondary market?*

A: *Yes, Your Honour.*

Q: *Do those reports reveal the persons from whom the EPF purchased these bonds ?*

A: *No, Your Honour.*

Q: *Do those reports reveal the persons to whom the EPF sold those bonds ?*

A: *No, Your Honour.*

Q: *Now are you aware of any dealings between Perpetual Treasuries and the EPF ?*

A: *No, Your Honour.*

Q: *Now it has been suggested that Perpetual Treasuries had made a profit ?*

A: *Yes.*

Q: *Are you aware of any profits made by Perpetual Treasuries ?*

A: *I was not aware when I was Governor Your Honour, after I left the Central Bank I heard about it.*

Q: *Till you ceased to be Governor, you were not aware of the profits made by Perpetual Treasuries ?*

A: *Yes, Your Honour.”.*

37] Mr. Mahendran was then asked if he had anything to do with the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

Mr. Mahendran said that, had no involvement whatsoever with these Auctions other than for ratifying the decisions of the Tender Board when it was sent to him after the Auctions were concluded. In this connection, Mr. Mahendran said, *“The decision of the Tender Board was sent to me for ratification and I did not alter it, so...”*.

38] When the Commission of Inquiry asked Mr. Mahendran whether he had the power to alter the decision of the Tender Board, he said, that he *“assumed that the reason it was sent to the Governor was that the Governor had a sort of veto power over the decision of the Tender Board”*. Mr. Mahendran added that, there had been some instances where he felt that, the decision of Tender Board needed to be amended and that, in those instances, *“I basically sent it back to the Tender Board asking them to reconsider their decision in the light of certain circumstances which I mentioned.”*

39] Mr. Mahendran said that it was a well-known fact that his son-in-law was Mr. Arjun Aloysius and that Mr. Aloysius was a Director of Perpetual Treasuries Ltd which had by then, obtained the License to function as a Primary Dealer, long before Mr. Mahendran assumed office as Governor.

40] Mr. Mahendran then stated that after his marriage in 1984, he moved into his Father-in-Law’s house at No. 52/1, Flower Road, Colombo 3. He said that, this house had been later gifted to the wife.

Mr. Mahendran and his wife had lived in that house till 2004 and during this time, his daughter was born in 1988 and his son was born in 1990. He said, his children had grown up in that house.

Mr. Mahendran described the house at No. 52/1, Flower Road, Colombo 3, as his *“permanent residence”* and said that his wife had lived in that house till 2004 and during this time, his daughter was born in 1988 and his son was born in 1990.

41] He said that, after his daughter and Mr. Arjun Aloysius got married in 2012, they lived in this house. Mr. Mahendran said that, the house had been gifted to his daughter with a life interest retained by his wife. Mr. Mahendran said that, he stayed at this house whenever he visited Sri Lanka during the period when he was employed abroad.

42] Mr. Mahendran said that when he was appointed as the Governor, he resided at this house which was then occupied by his daughter and Mr. Arjun Aloysius.

Mr. Mahendran stated that he did not move into the official residence of the Governor of the CBSL because it was in disrepair and he had continued to live at No. 55/2, Flower Road, Colombo 3 during his tenure as the Governor.

43] Mr. Mahendran stated that he never discussed official matters with his wife, daughter, son or son-in-law, prior to or after assuming office as Governor of the CBSL.

44] When Mr. Mahendran was asked whether he discussed any matter in relation to Treasury Bonds with wife, son, daughter or son-in-law, he replied in the negative.

When Mr. Romesh De Silva, PC asked, *“So are you saying under testimony oath with all seriousness conscious of you oath that you never ever discussed any official matter pertaining to the Central Bank and in particular Treasury Bond matter with Mr. Arjun Aloysius?”*, Mr. Mahendran replied, *“Yes Your Honour.”*. To the further question, *“Or with anybody else in Perpetual Treasuries?”*, Mr. Mahendran replied, *“Or anybody else, anywhere your Honour.”*.

45] Mr. Mahendran also stated that, he has no Shares in Perpetual Treasuries Ltd or any Company associated with Perpetual Treasuries Ltd.

He further stated that, he had no Shares in any Company incorporated in Sri Lanka or that he did not hold any Directorship in any Company incorporated in Sri Lanka.

46] Mr. Mahendran stated that, the officers of the Attorney General’s Department assisting the CBSL, had not told him that he should not function as the Governor of the CBSL when his son-in-law was a Director of a Primary Dealer Company.

47] Mr. Mahendran stated that on 23<sup>rd</sup> February 2015, the Monetary Board decided to hold an Auction for 30-year Treasury Bonds within a week.

48] When Mr. Romesh De Silva, PC asked Mr. Mahendran whether, by 27<sup>th</sup> February 2015, Mr. Mahendran had taken *“any view regarding public auction of the bonds or viz a viz direct placements?”*, Mr. Mahendran replied, *“On the 27<sup>th</sup> Your Honour, if I may, there had been several discussions regarding the advantages and disadvantages of public auctions vs. private placements at very high level of the Government. With the several weeks preceding the 27<sup>th</sup>. And I was given a very clear signal by the Honourable Prime Minister to whom the Central Bank reported, to whose Ministry the Central Bank reported. That all Central Bank procurement should be done in a transparent manner. In line with the policies of the new Government. I believe after the first Cabinet meeting, he made a public announcement that effect, when he specifically mentioned Central Bank along with other agencies that came under his*

*purview, and said that those procurements should be done in transparent manner. So, I interpreted that mean that to included issuance of Government debt. I then subsequently, confirmed it with him, in a conversation I had on the 24<sup>th</sup> February, during the Cabinet Committee meeting on Economic Affairs.”.*

49] Thereafter, when Mr. Romesh De Silva, PC asked, *“Now, so, on the 27<sup>th</sup> afternoon after the bids came in, you decided that the public auctions should be preferred method or should the method in respect of the sale of issuance of Treasury Bonds ?”*, Mr. Mahendran replied, *“Yes, Your Honour.”.*

50] Thereafter, when Mr. Romesh De Silva, PC asked whether Mr. Mahendran had conveyed to the Monetary Board, *“his decision that public auction should continue and direct placement should stop or be suspended for some time ?”*,

Mr. Mahendran replied that, at the next meeting of the Monetary Board held on 06<sup>th</sup> March 2015, he had explained to the Monetary Board that, the process of Direct Placements had been unsuccessful in raising the large volume of money needed and that he felt that, *“private placements were not doing their job. And along with that I have several reservations, about the private nature of those transactions which were outside the public purview, which meant that the Interest Rate structure in the country was being distorted and this would have severe negative implications in terms of what we call, “financial repression” in academic literature in Economics.”.*

Mr. Mahendran stated that the Monetary Board agreed with him at the meeting held on 06<sup>th</sup> March 2015.

51] Mr. Mahendran stated that he did not make any transfers with a view to helping Mr. Aloysius or Perpetual Treasuries Ltd or to obtain any kind of help for himself. Mr. Mahendran stated that he did not do anything to help Perpetual Treasuries Ltd or Mr. Arjun Aloysius.

We set out below, the relevant evidence:

*“Q: Now, Mr. Mahendran, did you transfer any officer of the Central Bank with a view to helping Perpetual Treasuries or Mr. Arjun Aloysius?*

*A: Not at all, Your Honour.*

*Q: Did you transfer any officer in the Central Bank with a view to help you in anyway ?*

*A: Not at all.*

*Q: Did you do anything as Governor to help Perpetual Treasuries or Mr. Arjun Aloysius?*

A: *No, Your Honour.*

Q: *Have you any in anyway gain from the issue of treasury bonds?*

A: *Not at all, Your Honour.”.*

52] We set out below some relevant evidence recorded when Mr. Harsha Fernando, Attorney-at-Law cross examined Mr. Mahendran:

“Q: *I assume you are aware under the Monetary Law Act, the Governor of Central Bank has significant executive powers?*

A: *Yes. Your Honour.*

Q: *In fact the explanation in the ‘Exter Report’ in section 19 confirms the powers of the Governor ?*

A: *Yes.*

Q: *So isn’t it correct to suppose Mr. Mahendran, that if the Governor is to make a suggestion or intervention or recommendation to a subordinate officer of a Committee of officers with reasons that seems acceptable they will follow that.*

A: *To a large extent, Your Honour.”.*

53] Mr. Mahendran was cross examined by the learned Senior Additional Solicitor General over three days - ie: 22<sup>nd</sup> September 2017, 02<sup>nd</sup> October 2017 and 03<sup>rd</sup> October 2017.

This part of the Cross Examination is of little assistance to the Commission of Inquiry in its efforts to ascertain the facts relevant to our Mandate and Mr. Mahendran has utilised this opportunity to firmly reiterate the positions he had taken in his Examination-in-Chief.

54] However, it is relevant to note here that, when, during his Cross Examination, learned Senior Additional Solicitor General repeatedly suggested to Mr. Mahendran that he had “*instructed*” Deputy Governor, Samarasiri to accept Bids for Rs. 10.058 billion when Mr. Samarasiri telephoned Mr. Mahendran during the meeting of the Tender Board, Mr. Mahendran emphatically denied that he had “*instructed*” Deputy Governor, Samarasiri to do so. Mr. Mahendran said that, instead, he had set out his reasons why he considered that accepting Bids for Rs. 10.058 billion was advisable and that, “*And then he agreed and put the phone down.”.* and added “*I didn’t direct him*



*or anything, Your Honour. I just told him I thought taking 10 billion was reasonable.*” Mr. Mahendran added that, no member of the Tender Board has sought to meet him and object to this decision.

55] At this stage, in reply to Questions asked by the Commission of Inquiry, Mr. Mahendran admitted that, this telephone conversation with Deputy Governor, Samarasiri took place while Mr. Mahendran was at his daughter’s house where he was having his lunch on that day.

56] Mr. Mahendran was cross examined by learned Senior State Counsel on 06<sup>th</sup> October 2017.

Learned Senior State Counsel showed Mr. Mahendran the Minutes of the Market Operations Committee meeting held on 27<sup>th</sup> February 2015 which, *inter alia*, reflected the prevailing Foreign Exchange Rates and suggested that there was no “*emergency situation*” which required Mr. Mahendran to have intervened at the Market Operations Committee meeting and effect a removal of the Two-Tier Interest Rate Structure of the overnight Standing Deposit Facility, when the Monetary Board had already decided a few days earlier to leave these Interest Rates unchanged.

Mr. Mahendran disagreed and reiterated that Deputy Governor, Weerasinghe and the members of the Market Operations Committee were in agreement of the decision to do away with this Two-Tier Interest Rate Structure.

57] Learned Senior State Counsel asked Mr. Mahendran whether, before he instructed that Direct Placements be suspended or stopped on 27<sup>th</sup> February 2015, he had “*asked the relevant department to submit a board paper, did you have sort of called for policy reviews*” and “*so is there anything you did that enabled you and other policy makers to review the system objectively, rather than mere discussions of the primary dealers.*”. Mr. Mahendran replied with a lengthy statement dealing with various economic factors alleging “*financial repression*” in the past, but did not claim that there had been a formal study done by the CBSL prior to 27<sup>th</sup> February 2015.

58] When learned Senior State Counsel said, “*I put it to you Mr. Mahendran that it was irresponsible to suspend the direct placement system so hastily without complete deliberation on the issue and the impact on the monetary policy.*”, Mr. Mahendran replied, “*I disagree, Your Honour. This was a policy directive that came from above, but it was discussed with extensively over two days between the relevant parties and the authorities and it was a considered decision, not something that was done irresponsibly at all.*”.

59] Further, in response to learned Senior State Counsel, Mr. Mahendran stated, “*All I was say is you can’t control Interest Rates. In a situation where Government borrowings is expanding very rapidly. That is why Interest Rates*

*are going up. That's a fundamental..... You can't go and other control device, artificial control devices to stop that market phenomenon. Either you believe market economy or My Lord, you have go in to socialist economy. That choice has to be made by the Government. I can't make that choice. My instructions were implement a social market economy. That was said by the manifest of new Government. In a market based economy My Lod, you have to basically depend on Interest Rate to create a equability and between demand and supply on funds. So, if you go and put a control mechanism say thou shall implement this rate of interest then the whole system breaks up to get what you call financial repression, you have the failure of banks, failure of financial institution, and we have seen that in the last decades in this country. So, that is my answer My Lord."*

60] In response to a question asked by learned Senior State Counsel whether reliance solely on Public Auctions, *"Pre-supposes a market where there is no collusion and where the primary dealers act on the information and where the market is not manipulated ?"*, Mr. Mahendran replied, *"My Lord, it has been proven before this Honourable Commission that whether it is private placement or auctions there is always the possibility of collusion malpractice. One system is not better than the other but I would say auction system is preferable because it is easier to monitor. Because there is transparency. At least, public gaze is there. In private placements we don't even know what is happening. My Lord. Arbitrary Interest Rates are applied to different primary dealers, and as Mr. Nihal Fonseka as said in those minutes we were given those on 17<sup>th</sup> September 2017, is it the case some primary dealers have, are given preferential favoured treatment. Vis a vis other primary dealers. All that cannot be monitored My Lord, in the private placement system. So I completely disagree with the learned Counsel when she is saying collusion only take place in public auctions."*

61] The Commission of Inquiry asked Mr. Mahendran several Questions with regard to the decision to stop Direct Placements. We reproduce below some of those Questions and Mr. Mahendran's Answers to these Questions:

*"Q: So then from what you just now said it logically follows that on the 27<sup>th</sup> of February 2015, there was no decision taken until the dawn of 27<sup>th</sup> February 2015 to stop direct placements ?*

*A: Yes.*

*Q: So when you walked into the Public Debt Department on the 27<sup>th</sup> of February 2015, there had been no decision taken by anybody to stop direct placements. Am I right ?*

*A: Yes, Your Honour.*

Q: *So that was the decision you took on your feet as it were as we lawyers say, in the Public Debt Department on the 27<sup>th</sup> of February 2015. Am I right ?*

A: *Yes.*

Q: *It was a decision taken solely by you ?*

A: *Yes.*

Q: *Without reference to any other official ?*

A: *It has been discussed Your Honour.*

Q: *It has been discussed ?.*

A: *I just confirmed.....*

Q: *There had been no discussion on that. I mean there has been no decision on that. Shall I say a joint decision reached by the Monetary Board or you in conjunction with other officials ?*

A: *Yes sir.”.*

62] When the Commission of Inquiry asked Mr. Mahendran. *“Mr. Mahendran, in your view, is a purely auction based system, which is what you proposed in February 2015, appropriate for this country, where the Government has almost unlimited appetite for borrowing. And the size of market is small ?.”.* Mr. Mahendran replied, *“I believe so, Your Honour. Sri Lanka is not a sort of backward country anyway. We have proved ourselves, to have best financial expertise in this country in my view. In our stock market that is prevalent we have one of the most transparent stock exchange in the world. And I really do not agree with certain evidence led before this Commission and that we are immature market and such like. In fact My Lord, the reason why the Government is borrowing too much is precisely because we don't have these market based controls on this Government borrowings. So, the Government is getting a free ride buy deliberately suppressing the market forces. And not facing the consequences of it's unbridle appetite for borrowing. That is my assessment of the situation my Lord. And as I pointed out My Lords, the other day, the Central Bank has in my view, deliberately suppress the implementation of a proper trading system for debt in the secondary market. As a part of this greater construct to prevent the market from functioning effectively.”.*

Thereafter, when the Commission of Inquiry asked Mr. Mahendran whether, in circumstances where the Government has a very hungry appetite to borrow and the size of the Market is relatively small, *“So in those circumstances, was it prudent to make such a “sea change” in the method of borrowing on a, what’s seems to be a, sort of a..... [spur of] the moment, virtually decision ?”*, Mr. Mahendran replied, *“My humble submission My Lord is we didn’t have an alternative.”*.

- 63] In reply to Questions asked by learned Deputy Solicitor General, Mr. Mahendran admitted that he received the daily Summaries of Capital Market Transactions sent by the EPF to Mr. Mahendran on a daily basis.

In this connection when learned Deputy Solicitor General asked Mr. Mahendran, *“Right. These documents [referring to the Summaries of Capital Market Transactions] would have reached you on daily basis Mr. Mahendran?”*, Mr. Mahendran replied, *“Yes ... Yes...”*.

- 64] When learned Deputy Solicitor General pointed out to Mr. Mahendran that, although the EPF had not purchased any Treasury Bonds, bearing ISIN LKB01530E152 at the Auction held on 30<sup>th</sup> October 2015, the EPF had subsequently purchased Treasury Bonds bearing the same ISIN in the Secondary Market at a higher cost than it could have obtained the same at the Primary Auction and, thereafter, sold those Treasury Bonds bearing the same ISIN, at a small profit on the next day. Mr. Mahendran admitted that this had occurred.

In this connection we set out the relevant evidence:

Q: *Now if I summarize so far, the EPF does not participate in the auction on the advertised on the 30<sup>th</sup> of October 2015. Therefore, it has no settlements to make to the Central Bank on 02<sup>nd</sup> November 2015. On that very day the 02<sup>nd</sup> of November 2015 buys the very bonds that were offered on the primary market at a fractionally lower yield rate from the average yield at the auction. Then Mr. Mahendran can you please say ‘yes’ or ‘no’ ?*

A: Yes.

Q: *Then the very next day sell it at a small profit ? Correct ?*

A: *Learned Counsel is assuming it’s a same bonds that were bought and sold. That is not vouch for but certainly it’s the same maturity date.”*

- 65] In response to the Question by the learned Deputy Solicitor General asking, *“Yes. Now to take another example, if Perpetual Treasuries were to buy at the auction at 110 and sell to EPF through another counter party on the same date*

*at 115, it is reasonable to assume that the EPF itself would have bought these bonds at the primary auction at 115 if given the opportunity?”, Mr. Mahendran replied in the affirmative.*

Thereafter, in response to a further Question, *“So, assuming that EPF bought the bonds at 115 in the primary auction, given that we are talking about a bond at a face value of 110. It would benefit the Government to the tune of 5 rupees per 100 bond?”,* to which Mr. Mahendran again replied, *“Yes”.*

66] When questioned by learned Deputy Solicitor General, Mr. Mahendran said that, at the meeting of the Monetary Board held on 20<sup>th</sup> May 2016 ad chaired by him, the Monetary Board had decided, *inter alia*, that, the EPF should submit Bids *“at reasonable rates”* at Primary Auctions of Treasury Bonds and minimize the need for the EPF to buy Treasury Bonds in the Secondary Market at low Yield Rates.

67] When learned Deputy Solicitor General asked Mr. Mahendran whether the Monetary Board reached the aforesaid decision on 20<sup>th</sup> May 2016 because there were complaints that the EPF was transacting in the Secondary Market and not the Primary Market, Mr. Mahendran replied in the affirmative.

We reproduce below, the relevant Evidence:

*“Q: So, now this decision was taken because over a period beginning somewhere November 2015, there were constant representations made that the EPF was buying in the secondary market rather that in the primary market ?*

*A: Yes.*

*Q: And as a result of this representation were made that the EPF would do better to buy direct at the primary market, than to buy in the secondary market from another primary dealer ?*

*A: Yes.”.*

68] When learned Deputy Solicitor General pointed out to Mr. Mahendran that, an “On-Site Examination” of Perpetual Treasuries Ltd had identified several *“supervisory concerns/findings”* with regard to some aspects of the business activities of Perpetual Treasuries Ltd and the CBSL had sent a letter dated 18<sup>th</sup> December 2015 to Perpetual Treasuries Ltd identifying those *“supervisory concerns/findings”* and requested Perpetual Treasuries Ltd to submit its plan to *“rectify those concerns”* and Perpetual Treasuries Ltd had replied by its letter dated 11<sup>th</sup> January 2016 [*“C321”* and *“C322”*], Mr. Mahendran admitted these facts.

When learned Deputy Solicitor General asked Mr. Mahendran whether the CBSL had taken further action with regard to these “*supervisory concerns/findings*” arising from the “On-Site Examination” of Perpetual Treasuries Ltd which had been identified in end 2015/early 2016, Mr. Mahendran said that he was not aware of any action being taken in this regard.

When the Deputy Solicitor General suggested to Mr. Mahendran that, prompt action should have been taken to carry out further investigations, Mr. Mahendran stated that there were several other Primary Dealers who had committed lapses similar to those identified in the aforesaid letters and that, in early 2016, the CBSL had been engrossed in its concerns about Entrust Securities PLC, which had lost funds up to a sum of approximately Rs. 12 billion.

- 69] In response to learned Deputy Solicitor General, Mr. Mahendran said that he initiated the Procedure whereby the EPF was required to submit a daily Summaries of its Capital Market Transactions, because it was necessary for the newly established Risk Management Department to be aware of the total exposure incurred each day by the various Departments of the CBSL.

In this connection Mr. Mahendran said, “*The whole point of Risk Management Department My Lord is to have a independent authority in the institution overlooking these types of sensitive transactions. In some of the Operational Departments. So, the whole purpose of that was for those officers in that Department to over-look this type of activity.*”. Mr. Mahendran added, “*..... because we set up the Risk Management Department. And I was trying to foster a risk management culture in the bank which had been there before. And to me daily report, real time date, is a critical aspect of risk management any financial institution that I worked in. Whereas this was sadly lacking in the Central Bank and we immediately started that function. Very Officers in charge of that activity.*”.

- 70] When learned Deputy Solicitor General suggested to Mr. Mahendran that he had delayed a request made by Mr. Jayalath, the Superintendent of EPF, to install a Voice Logger System in the EPF, Mr. Mahendran denied that allegation and stated that the delay had been caused by “*bureaucratic inertia*” and said, “*That comment My Lord, absolutely no basis in fact. I think, when I checked with the Central Bank about a month ago, it was very evident that they still had not implemented the voice recording system a year after Governor Coomaraswamy took over from me. This is bureaucratic inertia, My Lord. If you are not used to those implementing these types of devices, in the Central Bank. I have pointed out My Lordships, when I went to the Public Debt Department*



*also I was asking why they haven't have a voice recording system. Even to this day I don't think that system is operational."*

71] When learned Deputy Solicitor General asked Mr. Mahendran why he did not submit the report prepared by Mr. Jayalath and marked, "C206", to the Monetary Board, Mr. Mahendran replied, *"At that point My Lord, we didn't have sufficient information according to the Superintendent. And therefore, from Superintendent own conclusion from my limited memory, when I see the report, I will be able to answer more comprehensively. There wasn't any cause for the board to examine the issue because the Superintendent felt that, you know, there was nothing of basis for taking the matter further. And he wanted time, to examine this issue from my recollection."*

72] Mr. Mahendran stated thereafter that no person had told him of any meeting at the Ministry of Finance in March 2016, prior to the Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016. Mr. Mahendran said that he learned about these meetings from the evidence that had been led before this Commission.

73] When learned Deputy Solicitor General suggested to Mr. Mahendran that he had passed "inside information" to his son-in-law, Mr. Arjun Aloysius, Mr. Mahendran said that he totally rejected that suggestion

74] The Commission of Inquiry questioned Mr. Mahendran asking whether he saw a Conflict of Interest arising from the fact that, he was the Governor of the CBSL and his son-in-law had a beneficial interest in Perpetual Treasuries Ltd and continued to be a Director and Shareholder of the Holding Company of Perpetual Treasuries Ltd.

Mr. Mahendran admitted that, his son-in-law had a beneficial interest in Perpetual Treasuries Ltd and continued to be a Director and Shareholder of the Holding Company of Perpetual Treasuries Ltd while Mr. Mahendran was Governor of the CBSL

75] When the Commission of Inquiry asked Mr. Mahendran whether, in these circumstances, *"And do you still say you do not see a potential of a conflict of interest?"*, Mr. Mahendran replied, *"Nothing that I couldn't handle, My Lord."* When he was then asked, *"You felt you could handle it?"*, Mr. Mahendran replied, *"I felt I could handle it."*

The Commission of Inquiry then asked Mr. Mahendran, *"On paper. My interest on paper? On paper would it look like a fairly conflict of interest? We want your views?"*, Mr. Mahendran replied, *"Yes."*

When the Commission of Inquiry asked Mr. Mahendran, *"I just want to know what your personal views on these are?"*, Mr. Mahendran said, *"My personal*

*views on these are, if you if one conducts activity in a transparent manner, where it is clearly stated that any potential for conflict is dealt with in a manner that one cannot be accused.”.*

When the Commission of Inquiry then asked Mr. Mahendran, *“Now you have ....., given you of plenty of ..... I asked many times in different ways and you right along said that you did not see any necessary conflict of interest arising from Arjun Aloysius’s interest in PTL. And you being his father-in-law ?”.* Mr. Mahendran said, *“My Lord, there was a potential for conflict of interest. But, that could always be mitigated.”.*

The Commission of Inquiry then asked Mr. Mahendran, *“So, you felt that, you would be able to handle it, by keeping it at arm’s length ?”*, and Mr. Mahendran replied, *“Yes, My Lord.”.*

When the Commission of Inquiry then asked Mr. Mahendran whether he had, thereby, undertaken to be more virtuous than “Caesar ’s wife”, he replied in the affirmative.

- 76] In reply to Questions asked by the Commission of Inquiry, Mr. Mahendran admitted he knew that, Mr. Indika Saman Kumara was a “key player” in the EPF during the 2010-2012 period when the EPF was criticized for entering into loss-making Transactions in the Stock Market.

When the Commission of Inquiry then asked Mr. Mahendran why, in that background, Mr. Indika Saman Kumara was transferred to the EPF in mid-2016 and started trading in the Front Office in October 2016, Mr. Mahendran stated that, Mr. Indika Saman Kumara was “CFA qualified” and “we had a shortage of CFA qualified staff in the bank” and when on to say that, he had asked Mr. Tilak Karunaratne, a previous Chairman of the Securities and Exchange Commission, whether there had been evidence implicating Mr. Indika Saman Kumara in any wrong doing and then Mr. Mahendran said “And we didn’t get any real evidence My Lord” which implicated Mr. Indika Saman Kumara “In any significant wrong doing of a magnitude which would require sort of in depth investigation.”.

- 77] In Re-Examination by Mr. Romesh De Silva, PC, Mr. Mahendran stated that, the report marked “AM47” which sets out details of Transactions in Treasury Bonds carried out by the EPF during a month is an “extract” prepared for the purpose of “condensing” information contained in over 1000 pages of several documents [marked in the series “AM50”] which have been submitted to the Monetary Board.

Mr. Mahendran added that, no member of the Monetary Board and none of the Deputy Governors who attend meetings of the Monetary Board, all of whom

receive the aforesaid documents, had seen any causes for concern in the information set out in these documents with regard to the Transactions in Treasury Bonds carried out by the EPF.

- 78] In Re-Examination, Mr. Mahendran stated that, the Investment Committee of the EPF and the Officers of the EPF take decisions with regard to Transactions in Treasury Bonds carried out by the EPF.

In response to a Question asked by Mr. Romesh De Silva, PC whether, *“So, Mr. Saman Kumara had no role to play had no authority either to buy or to sell from the secondary market ?”*, Mr. Mahendran replied, *“Not that I am aware of, My Lord.”*

Mr. Mahendran also denied that, he had transferred Mr. Indika Saman Kumara to the EPF in mid-2015.

- 79] In Re-Examination, when Mr. Romesh De Silva, PC said to Mr. Mahendran *“It was suggested of question, as to whether there was a culture of following the Governor ?”*, Mr. Mahendran replied, *“Yes, My Lord, I disagreed with that.”* and went on to cite several examples of instances when his views had not been followed by the CBSL. Mr. Mahendran went on to say that, he did not *“bulldoze”* his way and said, *“As I said my management style is to try and persuade people to understand my way of thinking. In many instances they didn’t. And they objected to it and then I gave way.”*

When Mr. Romesh De Silva, PC asked, *“So during your time anyway there was no culture But [what] the governor say goes ?”*, Mr. Mahendran replied, *“Not at all My Lord.”*

- 80] In reply to Questions asked by the Commission of Inquiry, Mr. Mahendran stated that, he did not have any connections with Mr. Kasun Palisena or Mr. Nuwan Salgado of Perpetual Treasuries Ltd.

Mr. Mahendran also said that, he had no dealings with Mr. Indika Saman Kumara other than for the occasions on which Mr. Indika Saman Kumara had visited his office with a delegation of other officials of the Trade Union.

Further, Mr. Mahendran said that, he had no dealings with Mr. S. Padumanapan, who is an officer attached to the PDD.

When the Commission of Inquiry asked Mr. Mahendran, *“So, reason I asked is these are people who are of interest to us, we are looking at them Saman Kumara, Kasun Palisena, Nuwan Salgado, Padumanapan. And I asked to this because we have to come to a finding what you say is that you had dealings with them on official basis in the bank but no private dealing ?”*, Mr. Mahendran replied, *“No, private dealings at all.”*

Mr. Namasivayam Wasantha Kumar, had joined the People's Bank on 01<sup>st</sup> March 2001 as the Head of the Treasury and is now the Chief Executive Officer/ General Manager of the Bank, a position he has been holding since 21<sup>st</sup> February 2011.

The relevant evidence of this witness:

- 1] Mr. Wasantha Kumar stated that the Chairman of People's Bank, Mr. Hemasiri Fernando requested him to attend two meetings held at the Ministry of Finance in the month of March 2016. Accordingly, he had attended those two meetings held on 28<sup>th</sup> March 2016 and 30<sup>th</sup> March 2016, at the Ministry of Finance, along with the Chairman and a few other officials of the Bank.
- 2] The witness then said that both these meetings were presided over by the Hon. Minister of Finance Mr. Ravi Karunanayake. He further said that the Chairmen of the three State Banks – the Bank of Ceylon, National Savings Bank and the People's Bank were present at the first meeting and that except for the Chairman of Bank of Ceylon, the other two Chairmen had been present at the subsequent meeting.

Further he stated that Mr. Paskaralingam, Adviser to the Hon. Prime Minister was also present at both of the aforementioned meetings. He stated that a number of officials from State Banks and from the Central Bank were also present at these two meetings and has mentioned the names of some of those officials. He did not mention as to whether Mr. Samarasiri, Deputy Governor of the Central Bank was present at any of the two meetings.

- 3] The witness stated that Mr. Ravi Karunanayake, the Hon. Minister of Finance, at both these meetings had emphasized that the Interest Rates that prevailed at that point of time were very high and therefore had insisted that it was necessary to bring the rates down for the betterment of the economy of the country. Having said that, the Minister of Finance had requested State banks to bid low at the Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.
- 4] Mr. Wasantha Kumar then stated that the Hon. Minister informed the Chairmen of the three State Banks and the officials concerned who were present at these two meetings to place their respective bids at the aforesaid Treasury Bond Auctions, in accordance with the rates prescribed by him. The Minister had also indicated the volume, the State Banks were expected to place bids at. The volumes indicated were the values of the Bonds maturing at or before the Auctions.

5] The witness stated that the Bonds of the People's Bank that were to mature on 28<sup>th</sup> March 2016 amounted to a total value of Rs. 8 Billion. He then said that the rates that were prescribed by the Minister, Mr. Ravi Karunanayake on the 28<sup>th</sup> March 2016 are as follows.

- a. Bond---2020A.....12.50-13%
- b. Bond---2025A.....12.75-13.20%
- c. Bond---2026A.....12.80-13.45%
- d. Bond---2030A.....12.90-13.6%

6] The following morning, ie. on 29<sup>th</sup> March 2016, the witness had called the Deputy Head of the Dealer Unit of the Bank, Mrs. Roshini Wijeyratne and directed her to coordinate with the other two State Banks with regard to the Rates that were indicated by the Minister and to place bids at the Auction to be held on 29<sup>th</sup> March 2016, in accordance with those instructions. As the witness wanted to ensure that the Central Bank did not accept bids that were higher than what was stipulated by the Minister, he had asked Mrs. Roshini Wijeyratne to contact officials of the Central Bank and to inform them that if higher rates are accepted at the Auction, People's Bank will incur a higher loss. According to the witness, Mrs. Roshini Wijeyratne had in fact conveyed this to Mr. Sarathchandra of the Public Debt Department. Annexure A to the witness' Affidavit marked "C284" is a tape recording of the Dealer Room conversation between Mrs. Roshini Wijeyratne and the Superintendent of Public Debt, Mr. Sarathchandra on 29<sup>th</sup> March 2016. This had taken place before the Auction closed on that day. The witness was certain that Mr. Sarathchandra was aware of what Mrs. Roshini Wijeyratne was speaking of and that it was in connection with the agreement for State Banks to bid at rates which were lower than the market rate.

7] Mr. Wasantha Kumar then stated that the volume indicated on 30<sup>th</sup> March 2016, ie.at the subsequent meeting, by the Minister was Rs. 7,500 Million, while the Yield Rates that were prescribed for the placing of bids at the Auction scheduled for 31<sup>st</sup> March 2016 were as follows. These Rates are shown in Paragraph 35 of the Affidavit affirmed to by this witness.

- a. Bond---2018A.....11.75%
- b. Bond---2019A.....11.75%
- c. Bond---2021A.....11.99%
- d. Bond---2028A.....13.33%

8] Mr. Wasantha Kumar stated that the above Rates given by the Hon. Minister was markedly below the market rates. The witness also said he was very concerned when they were asked to bid below the market rate. However, he

had been of the view that as a State Bank, it was in the interest of the country and therefore had agreed to comply with those instructions, because the State Banks had genuinely wanted to bring the rates down. The witness stated that the lower Interest Rate is conducive for the country as well as the Bank. However, he said that the whole purpose is lost if a higher rate is accepted at these Auctions.

- 9] The witness said that despite all those concerns, he became aware that Rs. 37.7 Billion had been accepted at the Auction held on the 29<sup>th</sup> March 2016, an amount that far exceeded the amount that was originally offered. In spite of all those circumstances, at the subsequent meeting, he had agreed, yet again, to place bids in the same manner at the next Auction to be held on 31<sup>st</sup> March 2016. His evidence is that, they had complied with instructions, due to the assurance that was given, of the non-repetition of what transpired at the first Auction of the two. The assurance that was given to the witness, that the specific rate prescribed would be the cut off rate, had not been adhered to. The witness also said that at the time he attended the meetings of the Ministry of Finance, he was not aware of the fund requirement of the Government.
- 10] The witness was asked whether he had any prior experience of an incumbent Minister calling representatives of State Banks to a meeting and prescribing exact rates at which bids should be placed. The witness replied “no”, however he also added that the Secretary to the Treasury may have summoned and informed officials to bring the rates down.
- 11] The witness also stated that they would generally base their bids only after going through the prevailing market rates. He then added, that it is the Investment Committee of the Bank that takes decisions as to the volume and the rates at which the Bank could/would invest in Bonds. He also stated that there was no need for the Investment Committee to have any discussion in this instance, as the Minister had given definite instructions concerning the manner in which they were to place bids, at the two meetings held prior to the respective Auctions.
- 12] Mr. Wasantha Kumar in Paragraph 45 of his Affidavit marked “**C284**” has calculated the opportunity loss incurred by the People’s Bank. According to him, the opportunity loss as a result of their inability to place bids at the market rate is as follows:
- |    |            |                        |
|----|------------|------------------------|
| a. | 29.03.2016 | Rs. 255.1 Million; and |
| b. | 31.03.2016 | Rs.103.06 Million      |

A work sheet setting out the loss calculation is marked as “**D**” and is annexed to his Affidavit.



- 13] Mr. Wasantha Kumar also stated that in or around May 2016, Minister Mr. Ravi Karunanayake had called him and wanted him to take one, Mr. Haliyadda, as an officer to the Treasury of the People's Bank. The witness had informed the Minister that there were no vacancies at the time. The Minister then had stated that there was a lady who can be replaced, to which the witness had replied "No" and informed the Minister that she was doing a good job. Accordingly, the Bank had turned down the Minister's request and had not recruited Mr. Haliyadda.

**Section 5.52** - **Mr. Hemasiri Fernando**

Mr. Hemasiri Fernando has been the Chairman of People's Bank since February 2015. He is not a professional Banker. He had served in the capacity of Chairman for a period of two and a half years by the time he gave evidence. Mr. Fernando filed an affidavit in addition to his oral testimony in support of his evidence.

The relevant evidence of this witness is:

- 1] Mr. Fernando stated that on 28<sup>th</sup> March 2016, he received a telephone call from the Ministry of Finance requesting him to attend a meeting to be held at the office of the Minister. Accordingly, he attended the said meeting accompanying the Chief Executive Officer of the Bank Mr. Wasantha Kumar around 3.30 p.m. on that day. He then said that the Chairmen of Bank of Ceylon and the National Savings Bank and the senior adviser to the Hon. Prime Minister were also present at this meeting.
- 2] He stated that at this meeting, the Minister prescribed a *range of rates* for the State Banks to place their bids at the Treasury Bond Auction held on the 29<sup>th</sup> of March 2016. Furthermore, he had advised the officials of State Banks to re-invest the maturing Bonds. The witness stated that Mr. Wasantha Kumar expressed his concerns over these rates since the market rates were lower than what was given by the Minister. However, he said they had no option but to comply with those instructions, as the State Banks fall under the purview of the Treasury.
- 3] He then stated that he attended another meeting which was also presided over by the Hon. Minister of Finance at the Ministry of Finance on 30<sup>th</sup> March 2016. The witness then stated that on that day, the Minister prescribed specific rates instead of a range and specified a volume of Rs. 7.5 billion each, for the State Banks to place bids, at the Auction was to be held on 31<sup>st</sup> March 2016 to which they have adhered to.

- 4] At the meeting held on 30<sup>th</sup> March 2016, Mr. Fernando had had his concerns over the manner in which the bids were placed at the Auction that was held on 29<sup>th</sup> March 2016. It was because the assurance given by the Hon. Minister that no bids higher than what he stipulated on that day, would not be accepted had not been complied with.
- 5] Counsel Mr. Harsha Fernando, Attorney-at-Law, appearing on behalf of Mr. Samarasiri who was the Deputy Governor at the time, questioned the witness at length as to the presence of Mr. Samarasiri at the aforesaid meetings. Mr. Hemasiri Fernando first said that he has clear memory of exactly what happened at the two meetings but then said that he has imperfect recollection and that he is confused as to whether Mr. Samarasiri was present at these meetings.
- 6] The witness also stated that the Minister of Finance had requested him to consider an application of an individual to be appointed to the Treasury Department of the Bank. However, the witness stated that since the CV of the applicant was not impressive, and also because the People's Bank Treasury Department did not lack any expertise, he had rejected this request.

**Section 5.53** - **Mr. Aswin De Silva**

Mr. Aswin De Silva has been the Chairman of the National Savings Bank since 04<sup>th</sup> March 2015 and he had served the Bank in that capacity for nearly 3 years by the time he gave evidence. He is a Chartered Accountant and a Banker by profession. Before assuming duties as the Chairman of the Bank, he was residing in Australia for 8-9 years holding a dual citizenship.

The relevant evidence of this evidence is:

- 1] Mr. De Silva in his testimony before the Commission of Inquiry stated that upon receiving a telephone message from the Ministry of Finance, he attended a meeting at the said Ministry accompanying the General Manager of the Bank Mr. Dhammika Perera. The meeting was held on 28<sup>th</sup> March 2016. He had no recollection attending another meeting at the Ministry held on 30<sup>th</sup> March 2016. He stated that Hon. Ravi Karunanayake, the Minister of Finance chaired this meeting and Mr. Ronald Perera, Chairman of Bank of Ceylon, Mr. Hemasiri Fernando, Chairman of People's Bank, Mr. Wasantha Kumar, General Manager of the People's Bank, Mr. R. Paskaralingam, Senior Advisor to the Prime Minister, Mr. Samarasiri, Deputy Governor of the CBSL and several other officials from the Central Bank and the Treasury were among the other participants at this meeting held on 28<sup>th</sup> March 2016. The witness stated that he knows Mr. Samarasiri well and said that he believed that Mr. Samarasiri was

present at the meeting held on 28<sup>th</sup> March 2016. However, when he was cross examined by Mr. Harsha Fernando, he said that his recollection could be hazy.

- 2] He said that the Minister, at this meeting had expressed his concerns regarding the high Yield Rates prevailing at that point of time in Government Securities. Then the Minister had requested the State Banks to co-operate in bringing down the Yield Rates by bidding at a lower rate at the Auction to be held on 29<sup>th</sup> March 2016. Accordingly, the Minister had indicated a range of rates for the State Banks to bid at the Auction to be held the following day. Hon. Minister had also requested the State Banks to place their bids based on the availability of funds of the respective Banks and after consideration of the proceeds of the maturities of the Bonds that they have already purchased.
- 3] However, the witness has stated that by bidding at a low rate, the Banks do face a risk of incurring an immediate market loss when the bids are accepted at higher Yield Rates from other Primary Dealers. The witness further said that the understanding that they had had was that bids at higher rates than those indicated would not be accepted. Finally, he said he was subsequently informed by the officials of the Bank that bids at higher rates had in fact been accepted by the Central Bank having deviated from what the Minister had assured at the meeting. The witness said that had the rates not been prescribed, they would have most likely placed bids at rates according to the prevailing market rates.
- 4] Mr. De Silva also said that a request had been made by him to the Central Bank to have an experienced officer to function as the Chief Dealer at National Savings Bank. Accordingly, Mr. Naveen Anuradha from the Central Bank was assigned to the Bank by the Deputy Governor Mr. Ananda Silva.

**Section 5.54** - **Mr. P. A. Lionel**

Mr. P.A. Lionel has been functioning as the Consultant (Treasury) since June 2015 at the National Savings Bank. Before that, he was working as a Deputy General Manager and was the Head of the Treasury having joined the Bank on 01<sup>st</sup> June 2015. Before joining the Bank too, he had been closely working with the Central Bank and the Finance Ministry for 28 years. The witness stated that he is a Forex dealer and not a Bond dealer and that he had 32 years of experience in this area. In addition to his oral testimony, he also has filed an affidavit describing the facts within his knowledge in relation to the matters connected with the mandate of the Commission. The said affidavit was tendered to the Commission marked as “**C287**”.

The relevant evidence of this witness is:

- 1] Mr. Lionel stated that he was aware of two meetings that were convened by the Minister of Finance Mr. Ravi Karunanayake, which was held at the Ministry. Those two meetings had been held on 28<sup>th</sup> March 2016 and 30<sup>th</sup> March 2016. However, he said that he attended only the second meeting held on 30<sup>th</sup> March 2016. General Manager, Mr. Dhammika Perera had informed him that he [the General Manager] and the Chairman, Mr. Aswin de Silva represented the Bank at that first meeting held on 28<sup>th</sup> March 2016. According to paragraph 5 of his affidavit the witness stated that he was informed by Mr. Dhammika Perera that Mr. Samarasiri had also been in attendance at this meeting.
- 2] Mr. Lionel stated that Mr. Dhammika Perera on 28<sup>th</sup> March 2016 informed him that there were instructions given by the Minister of Finance to the State Banks, including the National Savings Bank, to bid at low rates at the Auction scheduled for the 29<sup>th</sup> March 2016. Hon. Minister had also prescribed the volume and the rates at which the bids were to be placed at the Auction on 29<sup>th</sup> March 2016. Even though those rates specified by the Minister were lower than the market rates that prevailed then, Mr. Dhammika Perera had directed the witness to bid at those rates given by the Hon. Minister because an assurance had been given that the Central Bank would not accept bids at a higher rate than what was prescribed. The witness had written down the rates as mentioned by Mr. Dhammika Perera and had communicated it to the Deputy General Manager Ms. Jeevani Gunasekara to act accordingly and it was done so on 29<sup>th</sup> March 2016.
- 3] Having said that, the witness stated that usually, it is the Investment Committee that decides on the rates, having taken into consideration the liquidity position, market rates, requirement of Bonds by the Bank and its viability. In the present instance, the decision of the Investment Committee was in accordance with the rates provided by the Minister disregarding the usual practice. He stated that he was concerned after the results of the Auction were made known to him since there were adverse financial implications to the Bank, due to the fact that the Weighted Average Yield Rate on which bids were placed by the Bank at the Auction held on 29<sup>th</sup> March 2016 was lower than that of the rates accepted by the Central Bank.
- 4] Mr. Lionel then stated that the Chairman instructed him to attend the meeting held on 30<sup>th</sup> March 2016 at the Office of the Minister of Finance. At that meeting, People's Bank was represented by its Chairman, Mr. Hemasiri Fernando, General Manager Mr. Vasantha Kumar and the Head of the Treasury, Mr. Clive Fonseka and Bank of Ceylon was represented by the Deputy General Manager Mr. Jayasuriya. Mr. R. Paskaralingam, Senior Adviser to the Hon. Prime Minister and Dr. Samaratinga, Secretary to the Treasury had also been in attendance. However, the witness stated that he was unable to recall the officials of the CBSL present at the meeting held on 30<sup>th</sup> March 2016.

- 5] The witness stated that on 30<sup>th</sup> March 2016, the Minister of Finance had provided four Yield Rates at which the State Banks were expected to place bids at, at the Auction on 31<sup>st</sup> March 2016. A specific volume of Rs. 7.5 Billion was also indicated for the Bank to place bids at. The witness stated that People's Bank raised their concerns when the rates were prescribed, due to what had transpired at the previous Auction held on 29<sup>th</sup> March 2016, since the undertaking given by the Minister had not been honoured. Nevertheless, the witness stated that their understanding was that the Central Bank would ensure that the bids would be accepted at the rates that were prescribed at the meeting chaired by the Minister.
- 6] The witness had communicated the instruction given at the meeting held on 30<sup>th</sup> March 2016, to the General Manager and the Chairman and had double checked with the representatives of the other State Banks, as to whether they would be bidding according to the instructions given. Since they had also replied in the affirmative, the witness had referred the rates to the Investment Committee for approval and subsequently the Bank had placed bids as per the instructions of the Minister.
- 7] Mr. Lionel stated that higher rates had been accepted by the Central Bank at this Auction. However, he emphasized that had the Minister of Finance not prescribed any rate, they would have taken an independent decision concerning the rates at which the bids would be placed. He had then gone on to calculate the opportunity lost by following this process.
- 8] The witness also stated that a request had been made to the Central Bank by the Deputy General Manager of the Bank and accordingly the Central Bank had seconded the services of Mr. Naveen Anuradha to function as a Dealer of National Savings Bank. Mr. Naveen Anuradha was appointed as the Chief Dealer, despite the fact that the advertisement was to appoint a Dealer. Mr. Anuradha had informed the witness that he would be handling the dealing process and that the witness had to inform him when taking decisions. The witness had informed the Chairman and the General Manager that he did not wish to work with the new Chief Dealer and then the witness' dealing limit of Rs. 1 billion had been withdrawn. The witness recalled Mr. Anuradha having stated that *"I have very good relationship with the then Minister"*, Mr. Ravi Karunanayake.
- 9] Mr. Lionel then stated that after Mr. Anuradha's appointment, there was a moderate increase in the volume of trading both in terms of deal numbers and deal amounts, with parties such as *"Perpetual, Pan Asia, DFCC and Equity."* However, he stated that the profits made by the Bank were the same despite

the magnitude of the dealings. He had informed the Investment Committee of his concerns over these events.

**Section 5.55**

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**Mr. Ronald Perera, P.C.**

Mr. Ronald C. Perera is a President's Counsel and has been functioning in the capacity of the Chairman of the Bank of Ceylon from 28<sup>th</sup> January 2015, though he is not a professional Banker. He is a Non-Executive Director even though he chairs the meetings of the Board of Directors of the Bank. In addition to his oral evidence, he also filed an affidavit in order to produce his testimony and the said affidavit was marked as "C288".

The relevant evidence of this witness is:

- 1] Mr. Perera stated that he was summoned for a meeting at the office of the Minister of Finance on 28<sup>th</sup> March 2016. He also stated that Dr. Samaratunga, Secretary to the Ministry of Finance, Mr. Hemasiri Fernando, Chairman of the People's Bank, Mr. Aswin de Silva, Chairman of the National Savings Bank, also attended the said meeting which was presided over by the Minister of Finance, Mr. Ravi Karunanayake.
- 2] At this meeting, the Minister had instructed the representatives of State Banks who attended the said meeting as to the manner in which the Banks should bid at the Auction that was to be held on 29<sup>th</sup> March 2016. They had also been provided with a range of Yield Rates at which bids were to be placed.
- 3] Witness stated that his understanding upon the conclusion of the meeting was that bids above those rates stipulated by the Hon. Minister would not be accepted at the Auction.
- 4] He said that he met the General Manager of the Bank, Mr. Gunasekara on the following day and told him to take necessary action in accordance with the instructions given by the Minister. Accordingly, the Bank had complied with these instructions without any objection.
- 5] Mr. Perera also said that he subsequently came to know that a similar meeting had been convened on 30<sup>th</sup> March 2016, to which the Bank of Ceylon Deputy General Manager in charge of the Treasury, Mr. Jayasuriya was summoned. He had also come to know that this officer of the Bank was informed the Yield Rates at which bids were to be placed at the Auction which was to be held on 31<sup>st</sup> March 2016.



Mr. Vasantha S. Wickramarachchi is presently holding the post of Assistant General Manager (Treasury) at the Bank of Ceylon. He had been functioning in this capacity for the last 2 years and 9 months and had been working in the Treasury Division of the Bank since 1996. However, as the Assistant General Manager he was not involved fully with Treasury transactions because there is a separate Dealer for handling this type of transactions. However, he was basically dealing with Government Securities. In addition to the oral evidence he gave at the Commission, he also filed an affidavit which was marked, "C289" in support of his evidence. This affidavit has number of annexures that were marked as "A" to "I" filed with the same.

The relevant evidence of this witness is:

- 1] Mr. Wickramarachchi stated that upon considering, the liquidity in the Bank and other relevant factors, the Investment Committee of the Bank decided to bid for Rs. 5.5 billion on the Yield Rates determined by the said Committee, at the Bond Auction held on 29<sup>th</sup> March 2016. This was done consequent to the advertisement published by the Central Bank in relation to four ISINs referred to therein which is the annexure marked "A" to his affidavit.
- 2] Accordingly, he said that the bids were placed at or around 10.10 a.m. on 29<sup>th</sup> March 2016. (Annex B)
- 3] Thereafter around 10.25 a.m., he has received a telephone call from the General Manager Mr. D. M. Gunasekara and he has informed him that the Chairman of the Bank, Mr. Ronald Perera P.C. wanted the Bank to submit the bids at the Yield Rates that were informed to the witness over the telephone. These rates are supposed to have been conveyed to the General Manager by the Chairman. Notes made by the witness with regard to the said Yield Rates, is found in the annex B-1 filed with his affidavit.
- 4] Mr. Wickramarachchi further said that these directions by the General Manager were discussed at the Committee for Investment at the Bank and thereafter bids were placed at the Auction on 29<sup>th</sup> March 2016 in a manner at least to ensure an optimal benefit to the Bank. Subsequently he had come to know the outcome of that Auction through the Dealer Mr. K. L. Premaratne.
- 5] Witness also said that he became aware afterwards that there had been a meeting held at the Ministry of Finance presided over by the Hon. Minister where a decision to place the bids by the Banks at particular Yield Rates and for a particular volume had been taken. He said that this information as to the Yield Rate and the volume had been taken down by Mr. Jayasuriya who is supposed to have been present at this meeting. The witness is working under

his instructions at the Bank. This document containing the Yield Rates and the volume is annexed to his affidavit marked as "E".

- 6] Final outcome of the Auction as far as the Bank of Ceylon is concerned had been informed forthwith to the General Manager through the Deputy General Manager, Mr. Jayasuriya.
- 7] The witness was referred to the document marked H, which shows the projected losses as a result of placing bids at the rates indicated to him by the General Manager at the Auction held on 29<sup>th</sup> March 2016. However, he further said that these are notional losses only. Opportunity loss calculated amounts to Rs. 247,476,300.00. The projected loss in relation to the Weighted Average Yield Rate is Rs. 86,239,000.00. The projected loss on the basis of the market rate is Rs. 1,527,000.00, according to him.
- 8] He has prepared a similar computation in relation to the Auction held on the 31<sup>st</sup> of March 2016 as well. (Annex marked I) Accordingly, unrealized loss is Rs. 3,115,000.00; loss on the basis of the Weighted Average Yield Rate is Rs. 102,693,000.00; loss on the basis of a re-evaluation of gain or loss as published by the Central Bank is Rs. 90,001,000.00.

**Section 5.57** - **Mr. D. M. Gunasekera**

Mr. D.M. Gunasekera is the General Manager of Bank of Ceylon PLC. He has been working in the Bank for over 33 years and has been functioning in the capacity of the General Manager of the Bank, for the past 4 years and 9 months.

The relevant evidence of this witness is:

- 1] Mr. Gunasekera has stated that he has never worked in the Treasury Department of the Bank of Ceylon and has no experience what so ever in that area of work. He also said that he never attended the two meetings held on 28<sup>th</sup> March 2016 and 30<sup>th</sup> March 2016 at the Ministry of Finance. However, he said that the Chairman of Bank of Ceylon, Mr. Ronald Perera had told him that he (the Chairman) attended the meeting held on 28<sup>th</sup> March 2016.
- 2] Having attended the meeting on 28<sup>th</sup> March 2016, the Chairman, Mr. Ronald Perera had told the witness the following morning, to place bids at the Treasury Bond Auction that was to be held on 29<sup>th</sup> March 2016, in accordance with the Rates that were given to him by the Chairman. Mr. Gunasekera stated that the Rates that were mentioned to him were written on a piece of paper. Thereafter, the witness had informed the Assistant General Manager to place bids accordingly, at the Auction held on 29<sup>th</sup> March 2016.

- 3] Mr. Gunasekera also said that he became aware of the matters that were discussed at the meetings held at the Ministry of Finance, in respect of both Auctions, held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016. On 30<sup>th</sup> March 2016, the witness had instructed Mr. Jayasuriya, the Deputy General Manager of the Bank to attend the meeting that was held on that day. After attending the meeting, Mr. Jayasuriya had told the witness that he was instructed to place bids for a volume of Rs. 7.5 billion, and the rates at which the bids were to be placed had been prescribed. The witness had then instructed Mr. Jayasuriya to place bids accordingly.

**Section 5.58** - **Mr. S. M. S. C. Jayasuriya**

Mr. Jayasuriya is now a retired officer from the Bank of Ceylon. He retired as the Deputy General Manager (International Affairs and the Treasury) and he was holding that position in the Bank for about one and half years. During the month of March 2016 Mr. Jayasuriya was the Deputy General Manager in charge of Treasury Bonds and Treasury Bills.

The relevant evidence of this witness is:

- 1] Mr. Jayasuriya identified his handwriting found on the Press Notice that has the Government Emblem on top, issued by the Central Bank in relation to the Auction that was to be held on 31<sup>st</sup> March 2016. It is the Press Notice published to issue Rs. 25,000 million worth of Treasury Bonds and the date of the Auction appears as 31<sup>st</sup> March 2016.
- 2] Mr. Jayasuriya said that he made some notes in his handwriting on that paper which is the aforesaid Press Notice. Then he was asked why he made such notes on that paper. In reply to that question he said that there had been a meeting at the Ministry of Finance on 30<sup>th</sup> March 2016. Then he said, Hon. Minister Mr. Karunanayake, Mr. Paskaralingam, Chairman of the National Savings Bank, Mr. Lionel, Chairman and the General Manager of the People's Bank were present at that meeting. He was the only person who had attended, representing the Bank of Ceylon, at this meeting held on 30<sup>th</sup> March 2016.
- 3] He further said that the Minister wanted them to place bids to the value of Rs. 7.5 billion at the Auction to be held the following day. He also said that the Minister gave the rates that they should place their Bids at, with the Central Bank when bidding for the Bonds.
- 4] The witness said that he made notes of those Interest Rates given by the Hon. Minister, in his own hand writing on the aforesaid Press Notice. The circled

figure of 7.5 appearing on that notice is the amount that the Minister wanted the Bank to place bids.

- 5] Mr. Jayasuriya then stated that he gave instructions to the Dealer to place the Bids according to the way that the Minister had wanted State Banks to place Bids. Thereafter, he stated that the placing of Bids was done accordingly.
- 6] He also said that the Rates given by the Minister are less than the market rates that prevailed at that time. However, he said that he came to know later that the bids placed above the rates prescribed to them, had been accepted at this Auction on 31<sup>st</sup> March 2016. Therefore, he said that subsequently, he realized that the undertaking given by the Minister at the meeting held on 30<sup>th</sup> March 2016 had also not been honoured.

**Section 5.59 - Hon. Malik Samarawickrama, MP**

Hon. Malik Samarawickrama stated that he had been functioning as the Senior Adviser to the Hon. Prime Minister on or around the day of the Treasury Bond Auction was held on 27<sup>th</sup> February 2015. This witness was called to give evidence upon a decision made by the Commission having considered the evidence led before it, particularly the evidence relating to his presence at a Breakfast Meeting held on 26<sup>th</sup> February 2015 at the Central Bank of Sri Lanka.

The Team from the Hon. Attorney General's Department assisting the Commission had informed the Commission that they have decided not to call the two Ministers, namely Mr. Malik Samarawickrama and Mr. Kabeer Hashim who attended the aforesaid meeting held at the CBSL, despite the fact that there was evidence which required clarification as to the requirement of funds by the Government for the month of March 2015.

Accordingly, the Commissioners had to lead his evidence at the inquiry deviating from the usual practice.

It is also necessary to note that the Team led by Senior Additional Solicitor General Dappula De Livera PC, did not pose any question to this witness though he was specifically given the opportunity to ask questions at the end of questioning by the Commission of Inquiry. No other Counsel wanted to ask questions from him either.

The relevant evidence of this witness is:

- 1] Mr. Samarawickrama said that he attended the breakfast meeting held on 26<sup>th</sup> February 2015 at the CBSL. He further said that Hon. Kabeer Hashim and his Ministry officials, Mr. Ravi Karunanayake, the then Minister of Finance and his

Treasury officials, the then Governor of the Central Bank and officials of the Central Bank were present at the meeting.

- 2] Mr. Samarawickrama also stated that the aforesaid meeting at the CBSL was held pursuant to a meeting of the Cabinet Committee on Economic Management held at the Temple Trees, headed by the Prime Minister, at which Hon. Kabeer Hashim had informed that monies were needed to pay for the construction work carried out during the regime of President Rajapaksa.
- 3] Mr. Samarawickrama then stated that at the meeting held at the CBSL it was found that Rs. 18 billion worth of funds were required to pay the outstanding contractors and the Ministry had an allocation about Rs. 3 billion. According to him, a deficit of about Rs.15 billion was required by Minister Kabeer Hashim.
- 4] Mr. Samarawickrama then said that he reported the outcome of the Breakfast Meeting to the Prime Minister. He specifically mentioned that nothing was discussed at the meeting held on 26<sup>th</sup> February 2015, in connection with the issue of any Treasury Bonds in connection with the aforementioned fund requirement.
- 5] Mr. Samarawickrama also said that he did not speak to Mr. Arjuna Mahendran on the telephone, on 26<sup>th</sup> February 2015, after the meeting or even on the following day.
- 6] Mr. Samarawickrama stated that he was the Chairman of the United National Party during the period under review, a post he continues to hold, to date.
- 7] Finally, he said that neither the United National Party nor he received any payment or contribution from Perpetual Treasuries Limited, any member of the Perpetual Group of Companies, any member of the Free Lanka Group of Companies, Mr. Arjuna Aloysius, Mr. Geoffrey Aloysius or any member of their immediate families.

#### **Section 5.60- Hon. Kabeer Hashim, MP**

Hon. Kabeer Hashim was the Minister-in-charge of Highways and Investment Promotions during the mandated period of the Commission of Inquiry. This witness was called to give evidence upon a decision made by the Commission having considered the evidence led before it, particularly the evidence relating to his presence at a Breakfast Meeting held on 26<sup>th</sup> February 2015 at the Central Bank of Sri Lanka.

The Team from the Hon. Attorney General's Department assisting the Commission had informed the Commission that they have decided not to call the two ministers,

namely, Mr. Malik Samarawickrama and Mr. Kabeer Hashim, who attended the aforesaid meeting held at the CBSL, despite the fact that there was evidence which required clarification as to the requirement of funds by the Government for the month of March 2015.

Accordingly, the Commissioners had to lead his evidence at the inquiry deviating from the usual practice.

It is also necessary to note that the Team led by Senior Additional Solicitor General Dappula De Livera PC did not pose any question to this witness, though he was specifically given the opportunity to ask questions from this witness at the end of questioning by the Commission of Inquiry. Mr. Arulpragasam, Attorney at Law appearing on behalf of Perpetual Treasuries Limited was the only Counsel who asked questions from this witness.

The relevant evidence of this witness is:

- 1] Mr. Kabeer Hashim admitted having been present at the Breakfast Meeting held on 26<sup>th</sup> February 2015 at the CBSL. He further said that Mr. Malik Samarawickrama, Senior Adviser to the Hon. Prime Minister, Mr. Ravi Karunanayake, the then Minister of Finance, Mr. Arjuna Mahendran, Governor of the Central Bank, several officials from his Ministry including the Accountant, Director General of the Road Development Authority and officials from the Treasury and Central Bank were also present at the meeting.
- 2] Mr. Kabeer Hashim said that the Secretary to his Ministry has written a letter on 16<sup>th</sup> February 2015 to the Secretary to the Treasury stating that the Ministry is to pay the contractors for their unpaid bills amounting to Rs. 18 billion. He was very specific on the figure Rs. 18 billion and has clearly stated "*nothing more*". He has voiced this request even at the Economic Management Committee held at the Temple Trees, even before the day of the breakfast meeting.
- 3] He has made this request ie. to obtain Rs.18 billion at the Breakfast Meeting held on 26<sup>th</sup> February 2015. That was the amount required for the month of March and it had remained unchanged during that month. It seems to be the only issue discussed at this meeting at the CBSL. He has stated that he did not speak to or telephone Governor Mahendran regarding the fund requirement, after the meeting held on the 26<sup>th</sup> or the day after.
- 4] He further said that the actual requirement was Rs. 15 Billion since there was Rs. 3 Billion remaining from the funds the Ministry had by then. Thereafter he said that in the month of March 2015 the Ministry had received Rs.8.3 Billion.



- 5] Mr. Kabeer Hashim stated that he was the General Secretary of the United National Party during the years 2015 and 2016. He said that as the General Secretary of the Party, he could testify that the United National Party did not receive any funds from Perpetual Treasuries Limited or any member of the Perpetual Group of Companies or from Mr. Arjun Aloysius or Mr. Geoffrey Aloysius or from any member of their immediate families.

**Section 5.61** - **Mr. K. G. Ratnaweera**

Mr. Kaushitha G. Ratnaweera is the Senior Dealer of Perpetual Treasuries Ltd and he had joined the company on 01<sup>st</sup> October 2014.

An affidavit affirmed to by this witness was marked “**C330**”.

The relevant evidence of this witness:

- 1] At the very outset, Mr. Kaushitha G. Ratnaweera stated that he always acted on the instructions of his Senior Dealer Mr. Nuwan Salgado and/or the Chief Executive Officer Mr. Kasun Palisena when discharging his duties in the Company.
- 2] The witness gave evidence with regard to:
- i. The Deal Tickets that he had prepared;
  - ii. The persons who gave instructions when preparing Deal Slips and the Deal Confirmations; and
  - iii. The specific instructions given to him in relation to the Cash Movements between Perpetual Treasuries Limited and its Associate Companies.
- 3] The witness has stated that there had been no movement of funds in respect of the Transactions referred to in the Deal Confirmations which are mentioned in Paragraph 5 of his Affidavit marked “**C330**”. He has also said that the Deal Confirmations referred to in Paragraph 7 of the aforesaid Affidavit were prepared by him on the computer on the instructions given by Mr. Kasun Palisena and not by other officers of Perpetual Capital Holdings, Perpetual Asset Management (Pvt) Ltd or W. M. Mendis & Company, though it is mentioned so in those Deal Confirmations.

Thereafter, he had submitted those Deal Confirmations to Mr. Arjun Aloysius, since he was the person who was authorized to sign Cheques on behalf of the three aforementioned Companies. He then said that no transactions or

transfers of funds had in fact taken place on the aforesaid Deals, referred to in Paragraph 7 of his Affidavit.

Thereafter he stated that similar actions had taken place in connection with the Deal Confirmations referred to in Paragraph 12 of his Affidavit. He further said that no transactions or transfer of funds had in fact taken place in respect of those Deals as well.

- 4] Mr. Ratnaweera has stated that he made phone calls to the Banks with which Perpetual Treasuries Ltd, Perpetual Capital Holdings Ltd, Perpetual Asset Management Ltd and W. M. Mendis & Company Ltd had maintained Bank Accounts and found out the balances in those accounts and it was done so, on the instructions of Mr. Kasun Palisena.

Thereafter, once again on the instructions of Mr. Kasun Palisena, he had requested the accounting officers of those Companies to issue Cash Cheques amounting to sums that were told to him by Mr. Kasun Palisena.

Thereafter, the accounting officers in those three companies had prepared Cash Cheques to be signed by Mr. Arjun Aloysius. After Mr. Arjun Aloysius signs those Cheques, the witness along with Mr. Nimesh Sanjeewa Weerasuriya, Mr. Chathuranga Udaya Kumara and another Office Assistant at Perpetual Treasuries Limited had encashed those Cheques. Thereafter, the money had been delivered to Mr. Kasun Palisena's room at Perpetual Treasuries Ltd. The amount that had been encashed in that process with the relevant Cheque numbers are shown in Paragraph 23 of his Affidavit dated 13<sup>th</sup> October 2017.

- 5] He has further stated that the financial transactions which W.M. Mendis & Company Ltd had with Perpetual Treasuries Limited took place on the written instructions of Mr. Arjun Aloysius.

**Section 5.62 - Mr. Nihal Fonseka**

Mr. Nihal Fonseka is an Appointed Member of the Monetary Board of the Central Bank of Sri Lanka. He was appointed in July 2016.

Mr. Fonseka has had a long and distinguished career in Banking. He started his Banking career at HSBC in 1976. He held the office of Deputy Chief Executive of HSBC in Sri Lanka from 1989-1999. In January 2008, Mr. Fonseka was appointed as the Chief Executive Officer of the DFCC Bank and continued to function in that capacity, until he retired in 2014.

Mr. Fonseka was the Chairman of the Colombo Stock Exchange from 2007 to 2012 and was a Member of the Presidential Commission of Taxation. He was also the Chairman and a Director of Acuity Partners which is an Investment Bank and which also functions as a Primary Dealer. He is a Director of John Keels Holdings PLC. He is the President of the Sri Lanka Chapter of the Chartered Institute of Securities and Investment, London.

The relevant evidence of this witness is:

- 1] Mr. Fonseka observed that he considered it very unusual for a Primary Dealer to withdraw large amounts in cash in the course of its daily operations. When Mr. Fonseka was shown documentation in the “C331”, “C332” and “C333” series, which shows that, Perpetual Treasuries Ltd has transferred substantial sums to Perpetual Capital Holdings (Pvt) Ltd, Perpetual Capital (Pvt) Ltd and W.M. Mendis and Company Ltd and these Companies have, thereafter, withdrawn those monies in cash, Mr. Fonseka said that, he considered it most unusual that a Primary Dealer has engaged in this type of Transactions.
- 2] When Mr. Fonseka was shown the Yield Rates at which the People’s Bank and the other two State Banks had submitted Bids at the Treasury Bond Auction held on 29<sup>th</sup> March 2016, Mr. Fonseka said that these Yield Rates are considerably lower than the Yield Rates at which the Peoples’ Bank had submitted Bids for comparable Treasury Bonds at the Auction held on 24<sup>th</sup> March 2016.

Mr. Fonseka went on to state that, the low Yield Rates at which the three State Banks had submitted Bids at the Treasury Bond Auction held on 29<sup>th</sup> March 2016, *“has dragged the weighted average amount weighted average rate down that I would say is a key reason.”* - ie: for the relatively low Weighted Average Yield Rates Net of Tax, at the end of the Treasury Bond Auction held on 29<sup>th</sup> March 2016.

- 3] The Audio Recording of the telephone conversation between Ms. Roshini Wijeratne of the People’s Bank and Mr. Sarathchandra, the Superintendent of Public Debt on 29<sup>th</sup> March 2016 was played for Mr. Fonseka to hear.

Mr. Fonseka stated that, in his view, Mr. Sarathchandra should have conveyed the information he received during this conversation, to the Monetary Board, when he submitted the report on the Treasury Bond Auctions held on 24<sup>th</sup> March 2016, 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016, to the Monetary Board.

In this connection in response to a question from the learned Deputy Solicitor General, *“So now assuming that the Superintendent of Public Debt was aware of that direction should he have referred to that in your view in this Board paper in this report ?”* Mr. Fonseka replied, *“Most certainly he should have because*

*otherwise withholding to relevant information and the Monetary Board carried away cancelling auction will resulting yield reducing in the next auction which is not necessarily logical. So he should have and I go further and say that it should have hard in the conversation that he said that bring it to the notice of the Tender Board's decision and he should have... notice of the... certainly it should have been referred to in this Board paper and that as a thing that happened which should have had on the reduction of... required by”.*

4] When Mr. Fonseka was shown the document marked, “**C334**”, and asked whether *“In summary what this document C334 shows, is that on the 1<sup>st</sup> of April... EPF bought One Billion in the primary auction thereafter they bought around 10 billion in this secondary market. is that correct?”*, Mr. Fonseka replied, *“Correct.”*.

5] When Mr. Fonseka was shown the document marked, “**C212D**”, he stated that as set out in this document, EPF had sufficient excess funds to have purchased Treasury Bonds at the aforesaid Primary Auction. We quote below the relevant evidence:

*“Q: Shown to the witness document marked C212 annexed D1. Now you will see right on the first row there the row No. 16... excess funds of the date that the EPF had that is I think it is... column 1eight column ?*

*A: Yes*

*Q: And what is the amount of excess cash the EPF had on that day ?*

*A: Showing at on the 1<sup>st</sup> of April which is the settlement date as 9.9 Billion*

*Q: So I am putting it to you that it is... if the EPF wish to purchase those Bonds at the primary market they had the funds to do on that date ?*

*A: On that day yes.”.*

6] In response to learned Deputy Solicitor General, Mr. Fonseka stated that if the EPF had placed Bids at a higher value at the Treasury Bond Auction on 29<sup>th</sup> March 2016, the Government would have obtained the funds raised at that Auction at lower Yield Rates.

7] In this connection, when learned Deputy Solicitor General asked Mr. Fonseka, *“And that different would be the excess funds that the Government expended in order to raised 21 Billion in Treasury Bonds raised by ?”*, Mr. Fonseka replied, *“...It is saying that if the Government sold the Hundred Rupees worth of debt with the EPF bidding funds I did sort of rough calculation the Government would*

*have received about 75.05 Rupees for every Rupees of debt is sold but since EPF bid did not and they end up but (what) has happened now is that the Government actually sold Hundred Rupees of debt at 73.0977 saying other words I would say the Government loss Rs. 1.9523 for every Hundred Rupees of debt if so 20.45.”.*

- 8] Mr. Fonseka explained the three-phase Procedure of issuing Treasury Bonds that was recently introduced by the CBSL.

Mr. Fonseka explained that this three-phase Procedure for the issue of Treasury Bonds was introduced by the CBSL in view of the prime objective of the CBSL to manage Monetary Policy, through the Interest Rates prevailing in the country.

Mr. Fonseka said that it was difficult to manage Interest Rates and Monetary Policy only by using Auctions of Treasury Bonds, especially in a Market such as that which exists in Sri Lanka.

He said that, he had studied the systems used in other countries for the issue of Treasury Bonds and stated that, many of these countries usually issue Treasury Bonds through Auctions, while retaining a fall back option of other modes of issue of Treasury Bonds, so as to not allow the Market to be the sole determiner of the Rates at which Public Debt is raised.

- 9] Mr. Fonseka said that under the new three-phase Procedure for the issue of Treasury Bonds, the CBSL retains the ability to control Interest Rates, which is a key component of the Monetary Policy.

- 10] When learned Deputy Solicitor General asked Mr. Fonseka whether under the “Auction Only” System practiced during the time Mr. Mahendran was the Governor, the CBSL retained the ability to control Interest Rates, Mr. Fonseka said that using a system solely based on Auctions, resulted in the CBSL having to depend on Yield Rates at which the Bids were placed by the Market.

- 11] When the Commission of Inquiry asked Mr. Fonseka, whether in the light of evidence given by some witnesses, the CBSL was, in 2014, using Direct Placements to artificially suppress Interest Rates and, thereby, creating a dangerous situation, Mr. Fonseka stated that, artificially suppressing Interest Rates could have dangerous consequences, because the forcible suppression of Interest Rates was not a sustainable exercise.

- 12] When the Commission of Inquiry asked Mr. Fonseka what his views are on Direct Placements, Mr. Fonseka replied, *“Placements have a place provided*

*you can do it with transparency and who are [when] everybody is on the same page [in] their ability to participating [participate in] direct placements.”*

- 13] Mr. Fonseka added that, in many countries, Direct Placements are accepted, but that he presumes there must be adequate safeguards to ensure that such Transactions are carried out in a transparent way.

When the Commission of Inquiry asked Mr. Fonseka what were the relative advantages and disadvantages of Auctions vis-à-vis Direct Placements as methods of issuing Treasury Bonds, he stated, *“I don’t think you can say one is better than the other. I mean I would say that you need to have both a bids [bit] of both and the bids [bit] you can determine how looking on the own circumstances of the country.”*

- 14] When the Commission of Inquiry asked Mr. Fonseka if he could enlighten the Commission of Inquiry on comparable practices followed in other Markets, Mr. Fonseka stated that the Philippines, Indonesia and Malaysia issue Treasury Bonds by way of Auctions and also by the acceptance of non-competitive Bids [in the nature of Direct Placements]. He stated that India has Single Price Auctions, Multiple Price Auctions and accepts Non-Competitive Bids. In this connection, Mr. Fonseka produced the document marked **“C336”**.

- 15] When the Commission of Inquiry asked Mr. Fonseka, in the background of the fact that, in early 2015, the acceptance of Direct Placements accounted for the issue of 80% or more of Treasury Bonds, what steps the CBSL was obliged to take if there was a proposal to stop or suspend Direct Placements, Mr. Fonseka stated that *“It should have been done of [after] the careful study and after looking at what are the other option[s] available for the Central Bank to discuss its obligations in terms of the law RSSO and as well as the Monetary Law Act. So which is to submit some extend [extent] try to do so this method I don’t think can make a very arbitrary sudden decision to change the system because that can have quite a impact on market and introduce a level of .... Which is not desired to.”*

- 15] When the Commission of Inquiry asked what the effect a sudden stoppage/ suspension of Direct Placements would have on the Market and Interest Rates, Mr. Fonseka stated that Interest Rates would move upwards, but that it would be possible to stabilize them later.

- 16] When the Commission of Inquiry asked Mr. Fonseka whether, in his view, in the background of a declining trend in Interest Rates towards the end of 2014, there was a need to raise the Interest Rates in 2015, Mr. Fonseka stated that, in his view, there was no necessity to increase Interest Rates in early 2015.



17] In response to a further Question from the Commission of Inquiry, Mr. Fonseka said that, the Interest Rates of the overnight Standing Deposit Facility and the overnight Standing Lending Facility are determined by the Monetary Board, based on recommendations made by the Department of Economic Research and stated that, the Market Operations Committee is not authorized to change those Interest Rates.

18] When the Commission of Inquiry asked Mr. Fonseka, in light of the evidence given by some witnesses that there is a culture in the CBSL where staff, including senior officers, unquestioningly obey the Governor, Mr. Fonseka stated that there are times which he feels not enough questions are asked by the staff when the Governor issues a direction.

Mr. Fonseka commented that he thinks there is *“that feeling the Governor is like the Pope.”*

19] In reply to the Commission of Inquiry, Mr. Fonseka stated that the Monetary Board plays no role in the transfer of the senior staff of the CBSL.

20] During the Cross Examination by Mr. Romesh De Silva, PC, appearing on behalf of Mr. Mahendran, Mr. Fonseka stated that Mr. Nivard Cabraal, who was a former Governor of the CBSL, is his first cousin. He went on to state that, he was the Chief Executive Officer of the DFCC Bank during Mr. Cabraal’s tenure as Governor. Mr. Fonseka stated that, he did not see any conflict of interest for Mr. Nivard Cabraal in this situation.

Similarly, he said that, he did not see any conflict of interest arising for Mr. Cabraal as a result of Mr. Cabraal’s brother-in-law, Mr. Ravi Thambiah, being a Director of the DFCC Bank.

Mr. Fonseka stated further that, in his view, that there was no conflict of interest arising for Mr. Cabraal as a result of another of his brothers-in-law, Mr. Sunil Wijesinghe being the Chairman of NDB.

21] Mr. Fonseka said that he had served as a Non-Executive Chairman of Acuity Partners, which is an Investment Bank, which has a License to operate as a Primary Dealer. He said that, during his tenure as the Non-Executive Chairman of Acuity Partners, he had not engaged in its daily operations. Mr. Fonseka said does not consider that a conflict of interest arose.

22] Mr. Fonseka stated that Mr. C.P.R. Perera, an Appointed Member of the Monetary Board is also the Chairman of an associated Company of Capital Alliance Limited which operates as a Primary Dealer. Mr. Fonseka said that, he does not think a conflict of interest necessarily arises.

- 23] Mr. Fonseka said that the Monetary Board does not monitor the performance of Primary Dealers, but that it would take into account the conduct of Primary Dealers if any concerns are identified by the Department of the CBSL that monitors Primary Dealers.
- 24] During the Cross Examination by Mr. Romesh De Silva, PC, Mr. Fonseka said that the system of issuing Treasury Bonds during Mr. Mahendran's tenure as Governor, continued from July 2016 until July 2017, until the introduction of the new system.

**Section 5.63 - Mr. Steve Samuel**

Mr. Steve Samuel is the Personal Assistant to Mr. Geoffrey Aloysius and Mr. Arjun Aloysius and is working at Perpetual Treasuries Limited. He had joined Perpetual Capital Holdings on 01<sup>st</sup> November 2016, as a Personal Assistant to Mr. Arjun Aloysius. Before joining Perpetual Treasuries Limited, he had worked for Sri Lankan Airlines and Qatar Airways for over 25 years. The purpose of calling Mr. Samuel as a witness is to produce the text messages and the emails that were found in his mobile phone and in the mailbox in his email account.

The relevant evidence of this witness:

- 1] At the outset, Mr. Samuel explained the nature of the work assigned to him. He was working as the Personal Assistant to Mr. Arjun Aloysius; he handled his employer's calendar, and attended to his personal and family work as well. He had always been in close contact with Mr. Arjun Aloysius.
- 2] This witness was shown a document that was already marked "**C208**". It contains text messages found in Mr. Steve Samuel's mobile telephone, which had been used by him to communicate with different people. Another document was also produced through this witness and was marked, "**C337**" and that contains email correspondence, as well as text communications between Mr. Steve Samuel and Mr. Arjun Aloysius.
- 3] Many messages found in these two documents were shown to the witness and then he was asked whether he could identify the persons referred to in those messages, who were named in shortened forms. In the messages referred to, there were abbreviations such as "RK" "AM", "RA" and "Honourable PM". He said that he does not know the persons referred to by those abbreviations. However, he said "AM" is referred to Anjali Mahendran and not Arjuna Mahendran. He further said that his duty was to merely take down the things that Mr. Aloysius wanted to convey to others. He also said that he does not

know the person who is referred to in the messages as “Arjuna M”, though it is common knowledge that “Arjuna M” is Arjuna Mahendran as far as the matter at hand is concerned. It is surprising to say that the witness does not know that Arjuna Mahendran is the father-in-law of the Chairman of the Company in which the witness is employed. He also said that he does not know what the term “Hon.” stands for.

- 4] The witness also said that he does not know Mr. Saman Indika Kumara even though his name appears in the text messages that were found in his mobile phone. He also said that he does not know a person by the name, Mr. Naveen Anuradha.
- 5] He said that he sent several sealed envelopes containing files with the headings “AM file” and “RK file”. However, he said that he had merely sent those files to Arjun Aloysius and that it was Mr. Aloysius who know the meaning of AM and RK file.
- 6] Basically, the evidence of Mr. Steve Samuel is that the text messages and the emails that originated from his telephone or email account, which have been directed to Mr. Arjun Aloysius’ phone or email account found in the document “**C337**”, had either been sent to or received by these devices, but that he is unable to explain the contents or the meaning of those messages. However, he admitted that those messages were sent to or received by his mobile phone or his email account.

**Section 5.64** - **Mr. T. I. Raban**

Police Inspector Thuwan Ishan Raban is an Inspector of Police from the Criminal Investigation Department of the Sri Lanka Police who was attached to the Commission of Inquiry to assist its investigations. He was required to interview and record the Statements of individuals whose testimony was considered as relevant to the matters connected with the mandate of the Commission.

The relevant evidence of this witness is:

- 1] Inspector Raban stated that he recorded the Statements made by the individuals whose names were read out to him at the proceedings by the learned Additional Solicitor General. He said that since 27<sup>th</sup> February 2017 he had recorded the statements of 26 persons including that of Mr. Arjuna Mahendran, Mr. Arjuna Aloysius, Mr. Kasun Palisena, Mr. S Padumanapan, Mr. P. Samarasiri, Mr. Nuwan Salgado and Ms. M. A. Vinodini.

- 2] Witness affirmed that these individuals were given the opportunity to read and make corrections if necessary and then to place their signatures to their statements.
- 3] A schedule containing the list of personnel whose statements were recorded by him was produced marked, “**C344**”. This document contains the following information: name of the individual who has been summoned for interviews, the names of the persons who recorded and typed the Statement, the place, date and time duration of each of these sessions etc.
- 4] Inspector Raban stated that the said interviews were conducted in accordance with the law and that those individuals were not subjected to any form of inducement, threat or promise when recording the statements. He confirms that these individuals were sometimes accompanied by their lawyers and they were given the opportunity to exit the room, consult with the lawyer and then resume the interview/ the recording of the Statement.

**Section 5.65** - **Mr. N. M. S. Herath**

Police Inspector Nalinda Herath is one of the Police Officers who were attached to the Commission of Inquiry for its investigation purposes. He has been assisting the Commission of Inquiry, *inter alia* to interview individuals and to record the statements made by them.

The relevant evidence of this witness is:

- 1] Police Inspector Herath, in his evidence said that he recorded the evidence of 18 witnesses including that of Mr. Arjuna Aloysius, Mr. J.K.D. Dharmapala, Mr. Nuwan Thilina Salgado, Mr. Sachith Devathanthri, Mr. Naveen Anuradha and Mr. Hector Appuhami.
- 2] He has prepared a schedule containing the list of witnesses whose statements were recorded by him. The Schedule containing this information is marked, “**C345**”.
- 3] The witness stated that these persons whose statements were recorded were not subjected to any form of inducement, threat or promise or any other form of harassment during the interview. Furthermore, he affirmed that the statements made by these individuals were accurately recorded and that they were given the opportunity to read and make corrections. They were asked to sign the statement, only if it was a true and accurate reflection of what they had stated.

- 4] The witness also mentioned that some of these individuals had arrived at the premises of the Commission, with their lawyers. The witness and the investigating officers had, after a brief communication, requested the lawyers to exit the room in which the interview was to take place. If the need arose, these individuals were given the opportunity to consult with their lawyers, and resume the interview. The witness affirmed that these individuals were treated in a humane manner and were provided with refreshments if necessary.
- 5] In response to questions from Mr. Kalinga Indatissa, PC, the witness stated that he has been serving the Police Department for over 20 years and that he was also aware of the Fundamental Rights Petition that was filed in connection with the issue before the Commission.
- 6] The witness stated that the Secretary of the Commission of Inquiry was instrumental in giving the instructions concerning witnesses who had to be summoned, for the purpose of recording of their statements. He confirmed that when recording a statement, as per Police rules, they are not allowed to receive instructions from anyone other than one of their senior Police officers.
- 7] The witness stated that upon the conclusion of the interview, Mr. Nuwan Salgado, Mr. Sachith Devathanthri nor Mr. Kaushitha Ratnaweera had expressed their willingness to submit affidavits in connection with the statements they had given.
- 8] Inspector Herath stated that he along with Inspector Raban and Police Sergeant Ranasinghe visited Perpetual Treasuries Limited on 09<sup>th</sup> October 2017, to seize computer equipment in that company, pursuant to an Order made by the Commission of Inquiry. However, he stated that he was not involved in the extraction and analysis of information contained in the computers so seized.

**Section 5.66**

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**Mr. K. A. S. Ranasinghe**

Police Sergeant Kapu Appuhamillage Siril Ranasinghe is a Police Sergeant from the Criminal Investigation Department who was attached to the Commission of Inquiry in order to carry out the investigations with regard to the matters pertaining to the mandate issued to the Commission.

The relevant evidence of this witness is:

- 1] Sergeant Ranasinghe stated that he recorded the Statements of individuals summoned by the Commission, in accordance with the instructions given to him

by his superiors at the Commission of Inquiry. The witness confirmed that he interviewed and recorded the Statements of 37 persons. Mr. Kasun Palisena, Mr. T.B. Sarathchandra, Mr. Indika Saman Kumara, Mr. Kaveen Karunamoorthy and Mr. Naveen Anuradha were among those persons.

- 2] The witness affirmed that the interviews were conducted in accordance with the procedure set out by the Sri Lanka Police and that those individuals were not subjected to any form of inducement, threat or promise.
- 3] The witness affirmed that these individuals were given the opportunity to read, make corrections if necessary and then allowed them to certify the recording of the Statement by placing their signatures. The Schedule marked “C346” tendered by the witness contained details of individuals whose statements were recorded by him.
- 4] Sergeant Ranasinghe confirmed that these individuals were accompanied by their lawyers and that they were given the opportunity to exit the room, consult with the lawyer and then resume the interview/ the recording of the Statement.

**Section 5.67** - **Mr. E. A. M. Jayathillake**

Police Sergeant E. A. M. Jayathillake is also another Police officer who was attached to the Commission of Inquiry from the Criminal Investigation Department for the purpose of assisting the investigation into the issuance of Treasury Bonds during the mandated period of the Commission.

The relevant evidence of this witness is:

- 1] Sergeant Ekapola Arachchige Mahindasoma Jayathilake stated that he recorded the Statements of the list of individuals that was read out to him by the learned Additional Solicitor General. That list contains the names of 20 persons. They included Mr. Arjuna Aloysius, Mr. Sachith Devathanthri, Mr. Nuwan Salgado, Mr. Naveen Anuradha and Mr. T.B. Sarathchandra. The Schedule containing the names and other details of the persons whose statements were recorded was marked, “C347”.
- 2] The witness affirmed that these individuals were not subjected to any form of inducement, threat or promise or any other form harassment, during the interview.
- 3] Sergeant Jayathilake stated that these individuals were accompanied by their lawyers and when necessary, they were given the opportunity to consult with their lawyers before resuming the interview. He affirmed that the Statements were duly recorded and that they were given the opportunity to read what the



witnesses have stated in their respective Statements made by them and allowed them to make the necessary corrections before they sign the document.

**Section 5.68 - Mr. B. M. A. S. K. Senaratne**

Mr. Sampath Kumara Senaratne joined the Police Department on 19<sup>th</sup> May 1996 as a Sub-Inspector of Police and became a Chief Inspector on 19<sup>th</sup> March 2015. He had been working in the Criminal Investigation Department since 01<sup>st</sup> December 1997 and has been the Officer-in-Charge of the Computer Crimes Division since the year 2000. He then became the Officer-in-Charge of the Digital Forensic Investigation Unit in the Criminal Investigations Department in 2016 and has been working in that capacity since then. He testified before this Commission on his educational qualifications and the experience he has. He has been investigating into Cybercrimes and has attended Forensic examinations in relation to electronic devices. Thereafter he gave evidence in connection with the reports that he prepared on the Forensic examinations conducted by him in respect of the mobile telephone bearing number 0777777723 used by Mr. Arjun Aloysius.

The relevant evidence of this witness:

- 1] This witness mentioned his career progress in the Police Department and said that he presently holds the overall responsibility of the Forensic investigations carried out by the Division of the Criminal Investigation Department in which he is the Officer-In-Charge. He has set out the courses that he has followed in Paragraph 4 of his Affidavit dated 1<sup>st</sup> November 2017, marked “**C 348**”. The areas of study have also been set out in the aforesaid Paragraph 4 of his Affidavit. He has followed the training/educational courses in the International Police-Japan, CBI Institute-India, University of Peradeniya, University of Colombo and National Police University South Korea. In addition to these programs, he has also received training in investigating into Computer and Cyber Crimes.
- 2] This witness said that he is an officer registered with Guidance Software Incorporated, which is a Company in America, in order to obtain the authority to use a software device, called and identified as EnCase. Accordingly, he had been authorized by the aforesaid company in America to examine computers and smart phones and to extract the data in those devices. In fact, he has made use of this software for investigations that he was entrusted with.
- 3] Mr. Senaratne stated that he is also a registered officer to use a dongle with the software named UFED which was produced by an Israel company named Cellebrite Mobile Synchronization Ltd. That dongle was a gift to Sri Lanka

Police from a company in South Korea. He has made use of this device to do forensic examinations including that of the mobile phone bearing number 0777777723 used by Mr. Arjun Aloysius. In doing so, he was assisted by two Police officers in the Criminal Investigation Department who were also certified as competent to attend to such examinations by the aforesaid company, Guidance Software Incorporated.

- 4] In his evidence, he has stated that he examined the electronic devices used by Mr. Arjuna Mahendran, Mr. Arjun Aloysius, Mr. Kasun Palisena and Mr. Nuwan Salgado and also the devices used by Perpetual Treasuries Limited. He has also said that a representative of the person whose device was to be examined was present when extracting the data. However, on some occasions, the representatives of those persons were not present when extracting data, despite them being informed of the time and place of examination before it was carried out.
- 5] Mr. Senaratne gave evidence in detail of the extracted contents that he found after examining the mobile phone used by Mr. Arjun Aloysius. He has stated that those materials which were in that mobile phone were taken into a PDF document by him and then transferred to a document which was marked, “C207”, “C208” and “C337”.
- 6] During the cross- examination by Mr. Anuja Premaratne PC, the witness said that his examination on the mobile phone used by Mr. Arjun Aloysius was carried out, using the software named UFED, and it was done so only after obtaining permission from the aforesaid company in Israel. He finally said that he is not aware of a single complaint made anywhere in the world as to the results that were arrived at, after making use of the UFED system.

**Section 5.69** - **Mr. S. D. N. Perera**

Mr. Salpadhoruge Dammika Nihal Perera is the General Manager and the Chief Executive Officer of the National Savings Bank. He joined the Bank on 17<sup>th</sup> March 1986 as an Assistant Internal Auditor and has risen to the position of the Chief Executive Officer.

The relevant evidence of the witness is:

- 1] Mr. Perera stated that he was present at a meeting held at the Ministry of Finance that was convened by the then Minister of Finance on 28<sup>th</sup> March 2016. He has attended the meeting along with the Chairman of the Bank, Mr. Aswin de Silva.

- 2] According to the witness; National Savings Bank Chairman, Mr. Aswin de Silva, Bank of Ceylon Chairman, Mr. Ronald Perera, People's Bank Chairman Mr. Hemasiri Fernando, Central Bank Officers including Mr. Samarasiri, Mr. Paskaralingam and the Secretary to the Ministry of Finance had been present at this particular meeting. Mr. Paskaralingam attended the said meeting in the capacity of a Senior Advisor to the Hon. Prime Minister.
- 3] Mr. Perera stated that he has known Mr. Samarasiri for more than 25 years, because Mr. Samarasiri was functioning as a Director, Assistant Governor and a Deputy Governor of the Central Bank during that time. He has come to know him through their professional duties and had been working closely with each other over the years. He also said that he had to liaise with Mr. Samarasiri particularly after he was appointed as the General Manager to the National Savings Bank. He also said that both of them had been working together at the Institute of Bankers, where Mr. Samarasiri functioned as both the Vice President and the President of the Institute.
- 4] The witness also said that he agrees with what other witnesses said before the Commission with regard to the directions given by Mr. Ravi Karunanayake, the then Minister of Finance, at the aforesaid meeting held on 28<sup>th</sup> March 2016.
- 5] This witness was called by the officers of the Hon. Attorney General's Department assisting the Commission of Inquiry for the purpose of obtaining the evidence of this witness that, Mr. Samarasiri was present at the aforesaid meeting held on 28<sup>th</sup> March 2016.

**Section 5.70** - **Mr. J.P.Y.Y. Jayasinghe**

Mr. Yasanka Jayasinghe joined the Police Department on 18<sup>th</sup> March 2013 as a Trainee Sub Inspector. Having completed his training at the Sri Lanka Police Training College in Kalutara, he was posted to the Police Station in Galle. After serving in Galle for only three-days, he was transferred to Matugama and then to the Criminal Investigation Department. He commenced duties in the Criminal Investigation Department on 01<sup>st</sup> September 2014 and has been serving in that Division in the Police up to now.

He is presently attached to the Technical Aid Unit in the CID and is engaged in the forensic examination of Computer devices, which includes the function of extracting data from telephones and other computer devices. Inspector Jayasinghe had undergone training conducted by the Federal Police in Australia on forensic examinations. Having examined computer devices, he had produced electronically generated evidence in cases such as the money laundering case of Mohammed Siam, the case where Saman Kumara alias "Wele Suda" was indicted and the murder case of Seya Sadewwani. He is making use of the devices named AKESO and UFED for

his Forensic examinations. It is evident that the reports produced in evidence by him, have been prepared with the use of these technical devices. The Forensic report prepared by this witness on Communication Information Analysis was produced in evidence.

The relevant evidence of this witness:

- 1] Mr. Yasanka Jayasinghe stated that he carried out his forensic examinations relating to the matters that fall within the scope of this Commission of Inquiry and such examinations were performed, in the capacity of an officer attached to the Commission. He had been released from the Criminal Investigation Department for the performance of the aforesaid duties and functions of the Commission. In his evidence he stated that he examined, the data found in the telephone used by Mr. Arjun Aloysius and the material provided by the Service Providers, namely Sri Lanka Telecom PLC, Dialog Axiata PLC, Etisalat Lanka (Pvt) Limited PLC, Bharati Airtel Lanka (Pvt) Limited and Mobitel (Pvt) Limited, for the purpose of preparing his forensic reports. The information submitted by these Service Providers include, the telephone numbers and National Identity Card numbers of the persons to whom those telephone numbers were allocated. He further said that the information he collected was restricted to individual activity reports and to the short messages (SMS) of the relevant subscribers and that it only covers the period from 01<sup>st</sup> January 2015 to 26<sup>th</sup> June 2017. He has also annexed a document to his Forensic Report marked “**C360**” and the said annexure, marked 1.2 shows the dates on which the important events had occurred in relation to the issuance of bonds.
- 2] The witness said that his Forensic Report indicates the call partners of the telephone conversations, the telephone which the call originated from and its directions, if it is an SMS whether it was an outgoing or incoming message, IP address and the identity of the Telecommunication tower to which the telephone calls were connected. According to the witness, this information is limited to the period from January 2015 to June 2017.
- 3] Mr. Jayasinghe stated that he used the Microsoft Excel software and IBM Analysis Notebook 2.9.0.5 for his examinations. He also said that he used the UFED device to analyze the data. He had subsequently prepared the said telephone Directory containing numbers and the usernames as stated in Paragraph 3.6 in his Report. In that Directory, the names of the persons who testified before the Commission are also mentioned. Accordingly, the time and the names of the persons who were parties to the conversations are found in the aforesaid Report.
- 4] The witness said that he examined the telephone to which the number 0722463361 is allocated to, which was being used by Mr. Arjuna Mahendran, for his analysis. However, he has not investigated, the conversations made

between Mr. Arjuna Mahendran and Mr. Arjun Aloysius because of their close relationship. He further said that there were no conversations between Mr. Arjuna Mahendran and the Primary Dealers registered with the Central Bank other than the personnel from the Primary Dealer company, Perpetual Treasuries Limited. Then he said that he examined the call details between Mr. Arjuna Mahendran and Mr. Kasun Palisena who is the Chief Executive Officer of Perpetual Treasuries Limited and stated that there were 27 telephone conversations and 7 text messages between them. The witness said that in one of the text messages, Mr. Arjuna Mahendran has sent his email address to Mr. Kasun Palisena. The witness has also said that there were telephone conversations between Mr. Arjuna Mahendran and other persons working for Perpetual Treasuries Limited, in addition to Mr. Kasun Palisena.

- 5] Sub Inspector Jayasinghe also stated that Mr. Arjuna Mahendran had had 30 telephone conversations with Mr. Indika Saman Kumara who is employed at the Central Bank and some of those conversations had been made outside office hours. There were five text messages between these two persons. Mr. Arjuna Mahendran also had 19 conversations with another officer by the name of Padumanapan, working in the Central Bank. He further said that no telephone conversations were found between Mr. Arjuna Mahendran and Mr. Padumanapan until 01<sup>st</sup> April 2015, during which period Mr. Padumanapan was attached to EPF Department in the Central Bank. However, he stated that there were 129 calls and 4 text messages between Mr. Arjuna Mahendran and Mr. Padumanapan after Mr. Padumanapan was transferred to the Public Debt Department. He also said that Mr. Arjuna Mahendran had telephone conversations with the Hon. Prime Minister, Mr. Ranil Wickremesinghe and the Chairman of the Bank of Ceylon on 27<sup>th</sup> February 2015, which is the date on which the controversial bond auction was held. The witness has also given evidence, on the conversations made between the period 01<sup>st</sup> April 2015 and 04<sup>th</sup> April 2015.
- 6] The witness thereafter mentioned the details of the telephone conversations Mr. Arjun Aloysius had with other persons during the period between 23<sup>rd</sup> October 2016 and 26<sup>th</sup> January 2017. The reason for this limited period is that the telephone used by Mr. Arjun Aloysius was not produced before the Commission of Inquiry for examination. Therefore, the details of the telephone conversations of Mr. Arjun Aloysius were limited to two and half months.
- 7] The witness also stated that there were 448 voice communications between Mr. Arjun Aloysius and Mr. Indika Saman Kumara during these two and half months and among those, 131 were Viber calls which had been made between 8 in the night and 8 in the morning. There were 61 conversations between Mr. Arjun Aloysius and Mr. Padumanapan. There were 703 Viber calls between Mr. Aloysius and Mr. Padumanapan.

- 8] Mr. Jayasinghe also stated that Mr. Arjun Aloysius and a person by the name of Naveen Anuradha who was released from the Central Bank to work at the National Savings Bank, had had 5 telephone conversations and 189 Viber calls. He also said that Mr. Arjun Aloysius had 48 conversations with Mr. Danuka Liyanagamage working at the Sri Lanka Insurance Corporation.
- 9] Mr. Jayasinghe said that Mr. Kasun Palisena had 38 telephone conversations with Mr. Indika Saman Kumara and; 14 telephone conversations and text messages with Mr. Amal Iroshan, who is the brother of Mr. Indika Saman Kumara. Mr. Kasun Palisena had had 22 calls and SMS messages with Mr. Danuka Liyanagamage.
- 10] Witness further stated that Mr. Indika Saman Kumara had 38 conversations with the wife of Mr. Arjun Aloysius, Ms. Anjalie Mahendran out of which eight conversations were in the night. Mr. Indika Saman Kumara had had 167 conversations with Mr. Sanjeewa Fernando who is another Director of Perpetual Treasuries Limited. He also had few other conversations with Mr. Ajahn Punchihewa and Mr. Pushya Gunawardena who were the Directors of Perpetual Treasuries Limited.
- 11] The witness said that Mr. Arjun Aloysius also had 387 telephone connections with Mr. Ravi Karunanayake for the period between 05<sup>th</sup> February 2015 and 20<sup>th</sup> June 2017 and there were 37 text messages between these two persons during the period 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016. The witness also said that Mr. Arjun Aloysius had 320 conversations and 12 text messages with Mrs. Mela Karunanayake, the wife of Mr. Ravi Karunanayake and there were 18 messages with Ms. Onella Karunanayake and Ms. Shenelle Karunanayake who are the daughters of Mr. Ravi Karunanayake.
- 12] In view of the evidence already led on the Report of the COPE Committee headed by Hon. Sunil Handunnetti, Member of Parliament, details of the telephone conversations between Mr. Arjun Aloysius and the members of the said Committee was elicited in evidence through Sub Inspector Jayasinghe. Accordingly, the witness stated that he did not find any conversations between Mr. Arjun Aloysius and Hon. Handunnetti, Hon. Rauf Hakeem, Hon. Anura Priyadharshana Yapa, Hon. Lakshman Seneviratne, Hon. Wasantha Aluwihare, Hon. Lasantha Alagiyawanna, Hon. Dr. Harsha De Silva, Hon. Ranjan Ramanayake, Hon. Asoka Abeysinghe, Hon. Chandrasiri Gajadheera, Hon. Anura Kumara Dissanayake, Hon. Mahindananda Aluthgamage, Hon. Bimal Rathnayake, Hon. Weerakumara Dissanayake, Hon. Mavei Senadhirajah, Hon. Abdulla Maharroof, Hon. S.Sridharan, Hon. Velukumar, Hon. Dr. Nalinda Jayatissa, Hon. Prasanna Ranatunga, Hon. Gnanamuttu Sirinesion and Hon. M. A. Sumandiran P.C. The witness then stated that



Mr. Arjun Aloysius had 2 conversations with Hon. Dayasiri Jayasekara, 2 conversations with Hon. Ajith Perera, 23 conversations with Hon. Harshana Rajakaruna, 23 conversations with Hon. Hector Appuhamy and 62 conversations with Hon. Sujeewa Senasinghe. This particular report was marked in evidence as “C352”.

**Section 5.71 - Hon. Ranil Wickremesinghe, MP**

In view of the evidence given by Mr. Mahendran and in view of other evidence placed before us, the Commission of Inquiry considered it relevant to obtain the evidence of the Hon. Prime Minister. In this connection we note that, the CBSL is under the purview of the Ministry of National Policies and Economic Affairs and that the Hon. Prime Minister is the Minister in charge of that Ministry.

In this connection, we wish to state that, in view of the Hon. Prime Minister’s high office and the many demands on his time, this Commission of Inquiry considered it proper and appropriate, in the first instance, to formulate the Questions which the Commission of Inquiry wished to ask the Hon. Prime Minister and, thereafter, act under and in terms of the provisions of Section 7 of the Commissions of Inquiry Act No. 17 of 1948, and request the Hon. Prime Minister to furnish his Answers, by way of an Affidavit, rather than by way of time-consuming Oral Evidence.

We wish to place on record here that, the Commission of Inquiry had previously followed the Practice of obtaining the evidence of several witnesses, by Affidavit. This and enables the Commission of Inquiry to obtain clear evidence of matters which are relevant to the Commission of Inquiry, ensures the accuracy of the Record and saves much time.

The Commission of Inquiry decided to formulate and ask Questions in the manner of Interrogatories, as provided for in Chapter XVI of the Civil Procedure Code,

The Commission of Inquiry decided that, once these Answers were furnished and considered, any necessary clarifications and further evidence, could be obtained within a short space of time, by way of Oral Evidence.

Accordingly, the Commission of Inquiry formulated 28 Questions which we wished to ask the Hon. Prime Minister and requested him to furnish his Answers to these Questions.

In pursuance of the aforesaid request, the Hon. Prime Minister submitted an Affidavit affirmed to on 20<sup>th</sup> October 2017, providing his answers to the 28 Questions framed by the Commission of Inquiry.

After considering this Affidavit, the Commission of Inquiry was of the view that it was necessary to obtain clarifications and further evidence on a few of the Answers set out in this Affidavit.

The Commission of Inquiry also sought the views of the officers of the Hon. Attorney General's Department who are assisting the Commission of Inquiry, with regard to whether further clarifications have to be obtained and also on whether they wished to ask any further Questions from the Hon. Prime Minister.

The officers of the Attorney General's Department assisting the Commission of Inquiry submitted, for the consideration of the Commission of Inquiry, a List containing 33 Further Questions which they suggested be asked from the Hon. Prime Minister. Although this List refers to Questions numbered from No. [1] to No. [35], the numbering on the List is erroneous since No. [5] and No. [12] have been omitted. Thus, in fact, there were 33 Further Questions in this List submitted for the consideration of the Commission of Inquiry.

The Commission of Inquiry considered that 13 of these Further Questions were not required and that they should be struck out, since these Further Questions were outside the scope of our Mandate and/or were irrelevant and/or the full Answers to these Further Questions had already been furnished in the aforesaid Affidavit affirmed to on 20<sup>th</sup> October 2017.

In these circumstances, the Commission of Inquiry sent 20 Further Questions submitted by the officers of the Attorney General's Department, to the Hon. Prime Minister, requesting him to furnish an Affidavit in response to these 20 Further Questions. The Commission of Inquiry advised the officers of the Attorney General's Department, that only these 20 Further Questions will be asked from the Hon. Prime Minister.

In pursuance of this request, the Hon. Prime Minister submitted another Affidavit affirmed to on 18<sup>th</sup> November 2017.

Thereafter, the Commission of Inquiry requested the Hon. Prime Minister to appear before us on 20<sup>th</sup> November 2017 and give evidence with regard to the clarifications we wished to obtain and to answer any further Questions which we considered to be relevant and necessary.

The Commission of Inquiry requested to the Hon. Attorney General to appear before the Commission of Inquiry on 20<sup>th</sup> November 2017 and lead his team of officers, as we were of the view that, it is proper and appropriate for the Hon. Attorney General himself to be present before us and lead his team of officers on an occasion when the Hon. Prime Minister of the Republic appears before the Commission of Inquiry.

We thank the Hon. Attorney General for having acceded to our request and appearing before us, on 20<sup>th</sup> November 2017.

On 20<sup>th</sup> November 2017, the Commission of Inquiry asked several Questions from the Hon. Prime Minister, to obtain clarifications on some of the Answers which the Hon. Prime Minister had furnished in the Affidavits affirmed to by him. The Hon. Attorney General also asked the Questions which he and his team of officers considered were relevant and necessary.

When the evidence of the Hon. Prime Minister commenced on 20<sup>th</sup> November 2017, the following documents were produced in evidence: (i) the letter dated 10<sup>th</sup> October 2017 sent by the Commission of Inquiry to the Secretary to the Hon. Prime Minister, marked “**C361**”; (ii) the Hon. Prime Minister’s Affidavit affirmed to on 20<sup>th</sup> October 2017, with annexures thereto, marked “**C362**”; (iii) The letter sent by the Commission of Inquiry to the Hon. Attorney General requesting the Hon. Attorney General to consider the aforesaid Affidavit, marked “**C363**”; (iv) The letter dated 01<sup>st</sup> November 2017 sent by the Senior Additional Solicitor General to the Commission of Inquiry with a List of 33 Questions [erroneously stated as 35], marked, “**C364A**” and “**C364B**”; (v) The letter dated 10<sup>th</sup> November 2017 sent by the Commission of Inquiry to the Secretary to the Hon. Prime Minister, marked, “**C365**”; and (vi) the Hon. Prime Minister’s Affidavit affirmed to on 18<sup>th</sup> November 2017, marked, “**C366**” with annexures thereto.

Thus, the aforesaid Affidavits affirmed to on 20<sup>th</sup> October 2017 and 18<sup>th</sup> November 2017 and the documents annexed thereto, which were marked “**C362**” and “**C366**” respectively, constitute evidence before this Commission of Inquiry.

We have included the two Affidavits affirmed to by the Hon. Prime Minister as Appendix “B1” and Appendix “B2” to this Report. [These two Affidavits and the Annexures thereto are included in the Volumes of Documents produced before this Commission of Inquiry, which are among the Annexures to this Report].

We will now set out a summary of the evidence on 20<sup>th</sup> November 2017.

- 1] The Commission of Inquiry referred to Question No. [5] (i) and (ii) framed by this Commission of Inquiry which asked, *inter alia*, whether the Hon. Prime Minister was aware that Mr. Arjun Aloysius was a Director and Shareholder of Perpetual Treasuries Ltd in 2014 and up to sometime in January 2015 and that, Mr. Aloysius resigned from the office of Director in January 2015.

Question No. [5] (i) and (ii) also asked whether the Hon. Prime Minister was aware that Mr. Aloysius continued to be a Director and Shareholder of the Holding Companies of Perpetual Treasuries Ltd - namely, Perpetual Capital Holdings (Pvt) Ltd and Perpetual Capital (Pvt) Ltd - even after January 2015.

In his Answer to Question No. [5] (i) and (ii), the Hon. Prime Minister stated that, he was aware that, Mr. Aloysius was a Director of Perpetual Treasuries Ltd and stated that, when Mr. Arjuna Mahendran was to be appointed Governor of the Central Bank, the Hon. Prime Minister insisted that, Mr. Mahendran must ensure that Mr. Aloysius resigns from the office of Director of Perpetual

Treasuries Ltd and not involve himself with the business activities of that Company in any way and also that Mr. Aloysius should divest himself of his Shares in Perpetual Treasuries Ltd. The Prime Minister stated that, he also conveyed those directives to Mr. Aloysius.

In his Answer, the Hon. Prime Minister had gone on to say that, Mr. Mahendran assured him that, Mr. Aloysius would not, under any circumstances, play any role in the business activities of Perpetual Treasuries Ltd and that the Hon. Prime Minister relied on those assurances given by Mr. Mahendran. In fact, in answer to Question No. [6], the Hon. Prime Minister had stated that, on several occasions, Mr. Mahendran reiterated that assurance given to him.

In this background, the Commission of Inquiry asked the Hon. Prime Minister, on 20<sup>th</sup> November 2017:

- (i) Were you aware that, the Holding Companies of Perpetual Treasuries Ltd were Perpetual Capital Holdings (Pvt) Ltd and Perpetual Capital (Pvt) Ltd?
- (ii) Were you aware that, Mr. Aloysius continued to be a Director and Shareholder of these two Holding Companies even after January 2015?

In response to Question No. (i), the Hon. Prime Minister said that he was not aware of the shareholding structure of the Holding Companies of Perpetual Treasuries Ltd and that he only knew that Mr. Aloysius had shares in Perpetual Treasuries Ltd, either in his name or in the name of another entity.

In response to Question No. (ii), the Hon. Prime Minister said that he was not aware. However, he went on to state that, Mr. Aloysius had said that he needed a *“bit of time”* to dispose of the shareholding he had in Perpetual Treasuries Ltd.

When the Commission of Inquiry asked, *“So, when you say, Mr. Aloysius said he will dispose of his share holdings, were (you) referring to his shares in Perpetual Treasuries Limited ?.”*, the Hon. Prime Minister replied, *“Yes. His shares in Perpetual Treasuries whether he held it direct [in] his name or through another entity owned by him”*.

- 2] The Commission of Inquiry then referred to Question No. [10] framed by this Commission of Inquiry which, *inter alia*, asked whether the Hon. Prime Minister instructed Mr. Mahendran, on 24<sup>th</sup> February 2015, to *“immediately stop”* the practice of the Central Bank accepting *“Private Placements”* of Treasury Bonds.

In reply, the Hon. Prime Minister had, *inter alia*, stated that, he was aware, at the time, the practice of the Central Bank was to issue the majority of Treasury Bonds by way of Private Placements and that he was of the view that this

system was unsatisfactory because it lacked transparency and also artificially suppressed Market Forces which should, ideally, determine Interest Rates and Exchange Rates.

The Hon. Prime Minister had gone on to state that, for these reasons, he advocated the issue of Treasury Bonds at Public Auctions.

The Hon. Prime Minister had further stated that, he directed Mr. Mahendran to “*consider*” issuing Treasury Bonds by way of Public Auctions in accordance with the Economic Policy of the Government and that, the Hon. Prime Minister “*expected that he would comply with due procedure*”. Further, in reply to the related Question No. [11], the Hon. Prime Minister had, *inter alia*, stated that, “*In the circumstances, it was expected that, Mr. Mahendran would take appropriate steps in accordance with due procedures to give effect to the objectives of the Government as expeditiously as possible ...*”.

In this background, the Commission of Inquiry asked the Hon. Prime Minister, on 20<sup>th</sup> November 2017:

- (i) Were you aware that, the Monetary Law Act clearly specifies that, it is the Monetary Board which is vested with the sole authority to determine the Policies and Measures of the Central Bank taken under the Monetary Law Act and that it is the Monetary Board which is the sole authority vested with the Powers, Duties and Functions of the Central Bank under the Monetary Law Act?
- (ii) Were you aware that, the Monetary Law Act clearly specifies that, the function of the Governor of the Central Bank is, primarily, to *execute* the Policies and Measures determined by the Monetary Board and to exercise or perform such other powers or duties as the Monetary Board may *confer* upon him?
- (iii) Were you aware that, as at February 2015, the Policy of the Monetary Board had been to issue the overwhelming majority of Treasury Bonds by way of Private Placements [in fact, in your Answer, you have acknowledged that this was the practice which was in force up to February 2015]?
- (iv) Were you aware that, the established practice followed by the Monetary Board over a long period of time is that, when major decisions are to be taken with regard to Policies and Measures which can affect “the Monetary, Financial and Payment Systems of Sri Lanka” and/or which can affect “Economic and Price Stability” and/or “Financial System Stability” [we are referring to the main Objectives of the Central Bank as set out in Section 5 of the Monetary Law Act], the Monetary Board will:

- (i) first, direct that the Departments of the Central Bank which deal with the relevant areas, study the issue and submit a detailed Board Paper; and then, (ii) the Monetary Board will consider that Board Paper and discuss the relevant issues and, only thereafter, reach a decision on those Policies and Measures?
- (v) In those circumstances, when you directed Mr. Mahendran to “*consider*” issuing Treasury Bonds by way of Public Auctions in accordance with the Economic Policy of the Government and you “*expected that he would comply with due procedure*” and “*take appropriate steps in accordance with due procedures*” did you expect him to first advise the Monetary Board of your Direction and discuss, at the Monetary Board, how to proceed with regard that Direction?
- (vi) If so, did you expect Mr. Mahendran to also discuss, at the Monetary Board, how to proceed with a possible shift from an overwhelming dependence on Private Placements to a primarily Public Auction system for the issue of Treasury Bonds?

In response to Question No. 2 (i), the Hon. Prime Minister replied that he was aware that the provisions of the Monetary Law Act vests the authority to determine the policies and measures of the Central Bank with the Monetary Board, but stated that, the Government had gone on the basis that, “*in the Constitution, the Government, Cabinet of Ministers can determine the policy which applies to all institutions, under the Government*” and the right held by the Government to “*give directions on general policies.*” The Hon. Prime Minister went on to say that, “*the decision on transparency had to be implemented by all*”. He added that, “*the control of public funds must lie with the Parliament*”.

When the Commission of Inquiry asked, “*Mr. Prime Minister, certainly policies are to be determined by the Government. But, once you give a order, direction or in this case, you answer is that you only asked Mr. Mahendran to consider, would you expect the execution of that order to be carried out in terms of due procedure followed by the institutions?*”, the Hon. Prime Minister answered in the affirmative.

When the Commission of Inquiry asked further, “*But, would you agree that, are you, did you expect whatever normal procedures that have been followed in the Central Bank when making major policy changes to have been followed?*”, the Hon. Prime Minister replied that “*I would expect*”.

In response to Question No. 2 (ii), the Hon. Prime Minister replied in the affirmative and added, “*Yes. I am aware of it and we wanted that to be restored.*”



*Because in the previous era, the Governor did not act, only informed the monetary board of what happens. So where (we) were committed to ensuring that there should be a way in which the Monetary Board should act subject to Government, overall Government policy. But, then we are not going to interfere in what the interest rates were, all that those were different matters. To be done according to policy.”*

In response to Question No. 2 (iii), the Hon. Prime Minister replied, *“Yes. I was aware. Because we were in Parliament. We’ve been informed of it. That this was a practice but, we were also informed that there had been no specific authority on this private placements.”* He added that, *“there were big gray area and virtually trillions of rupees had been taken in without authority. Which were really the core of the problem in the previous Parliament.”*

In response to Question No. 2 (iv), the Hon. Prime Minister replied, *“Yes. This was the procedure that they had followed, earlier.”*

In response to Question No. 2 (v), the Hon. Prime Minister replied as follows. *“Well. I advised him to go ahead. And I thought, he will follow whatever the procedure that were followed at that time. But, there also issue of, if we are going for private placements, again he would had to pass a resolution and getting specific authority from the type of private placements. There was a big vacuum. So, it had to be filled one way or other. But, some procedure had to be followed.”*

In response to Question No. 2(vi), the Hon. Prime Minister replied, *“No. I did not go to give him those directions. I just told him what the policies are. And what exactly transparency went about the private placements and the calling of auctions.”* The Hon. Prime Minister said that, he expected Mr. Mahendran to have taken the necessary actions.

- 3] The Commission of Inquiry next referred to Question No. [12] framed by this Commission of Inquiry which, *inter alia*, asks about the monies which were needed, from February 2015 onwards, to fund payments to Contractors on account of Road Works and other Projects, which may not have been previously accounted for and/or provided for by the Ministry of Finance in 2014.

Question No. [12] also states that, the evidence before this Commission of Inquiry suggests that, the funds required for this purpose were not included in the sum of Rs.13.55 billion which the Department of Treasury Operations had requested the Public Debt Department to raise on 02<sup>nd</sup> March 2015 [for which purpose a Treasury Bond Auction was held on 27<sup>th</sup> February 2015, with a Settlement Date of 02<sup>nd</sup> March 2015].

Question No. [12] goes on to state that, this appears to be confirmed by the fact that, the Daily Cash Flow Forecast for the Month of March 2015 which, *inter alia*, sets out the requirement of a sum of Rs.13.55 billion on 02<sup>nd</sup> March 2015, had been prepared by the Department of Treasury Operations on or before 20<sup>th</sup> February 2015, which was several days *prior* to the meetings on 24<sup>th</sup> February 2015 and 26<sup>th</sup> February 2015, which the Hon. Prime Minister had referred to in his Answer.

Further, this Daily Cash Flow Forecast for the Month of March 2015 states that, the sum of Rs.13.55 billion required on 02<sup>nd</sup> March 2015 was primarily to fund the payment of Rs. 13.55 billion due on a Treasury Bond which had to be redeemed that day and that, the estimated Outflow on account of Capital Expenditure on 02<sup>nd</sup> March 2015 was Rs. 5 billion.

In this background, the Commission of Inquiry asked the Hon. Prime Minister, on 20<sup>th</sup> November 2017:

- (i) In view of the aforesaid circumstances, would you agree that, the requirement of a Rs.13.55 billion on 02<sup>nd</sup> March 2015 which had been computed by the Department of Treasury Operations on or before 20<sup>th</sup> February 2015, was *not* connected with the requirement of additional funds in an amount of Rs. 15 billion which was urgently required, as determined at the meetings on 24<sup>th</sup> February 2015 and 26<sup>th</sup> February 2015, which you have referred to in your Answer ?
- (ii) Would you agree that, the additional funds in the amount of Rs. 15 billion which was urgently required [as determined at the meetings on 24<sup>th</sup> February 2015 and 26<sup>th</sup> February 2015] would have had to be raised *separately and/or in addition* to the sums stated in the Daily Cash Flow Forecast prepared by the Department of Treasury Operations on or before 20<sup>th</sup> February 2015 ?

In response to Question No. 3 (i), the Hon. Prime Minister replied, “*Yes. These are two separate transactions.*”.

In response to Question No. 3 (ii), the Hon. Prime Minister stated, “*If the Honourable Commissioners would be allow me, I would like to explain generally all Government expenditure must by noted in the budget. There must be provision made to the budget for expenditure. What had happened in the previous years, was that there have been many projects approved which was not shown in the appropriation bill. And the Act. For the simple reason there was an agreement with the IMF on certain limits. So, you go around the limits by not putting out on the books. And then when the money was collected you paid off. But, you had a problem. That’s what we did. That’s what we did. That we had actually two streams of payments to make. One is what is in the appropriation bill and one is outside that. And, I think for highways there were*

*talking of finally for that year including land compensation, something between about 75 billion to about, 100 billion. In fact last week I received a letter from a Singaporean company which had to be paid for the, doing part of the Northern express way, in 2013 or 2014. No one knows about it. Till we got the letter last week. So, there are, even now we have various claims coming in. And in the case of Sri Lankan, where this, not on the books, but all the liabilities on the banks. If anything goes bad, we still had to fund the banks to about 5 to 6 hundred million US. So, this is, we are just going through it. It's a cut of [case for] forensic examination."*

- 4] Thereafter, the Commission of Inquiry referred to Question No. [13] framed by this Commission of Inquiry which, *inter alia*, asks whether Mr. Mahendran had any discussion or conversations with the Hon. Prime Minister prior to 27<sup>th</sup> February 2015 and/or on 27<sup>th</sup> February 2015 with regard to the Treasury Bond Auction to be held on 27<sup>th</sup> February 2015.

In his Answer, the Hon. Prime Minister had stated, that, on the evening of 26<sup>th</sup> February 2015, Mr. Mahendran informed him that *"it may be possible to raise at least a part of"* the additional funds required for the ongoing Road Works, at the Treasury Bond Auction to be held on the next day.

Next, the Hon. Prime Minister has stated that, *"After the Auction held on the 27<sup>th</sup> of February 2015, he informed me that in fact Rupees Ten billion had been raised."*

In this background and in view of the Evidence placed before us that, there had been a Call from Mr. Mahendran's Telephone to a stated Telephone Number at 12.39 Hours on 27<sup>th</sup> February 2015 and that, there had been three Calls from that same stated Telephone Number to Mr. Mahendran's Telephone, later on in the afternoon and evening of that same day, the Commission of Inquiry asked the Hon. Prime Minister, on 20<sup>th</sup> November 2017:

- (i) Is the Telephone Number you have been shown just now, a Telephone Number on which you can be contacted?
- (ii) Do you personally answer that Telephone?
- (iii) Do you recall the contents of the 4 Telephone Conversations which are reflected in the Document shown to you?

In response to Question No. 4 (i), the Hon. Prime Minister replied, that the Telephone Number referred to by the Commission of Inquiry, was one that he used.

In response to Question No. 4 (ii), the Hon. Prime Minister stated that he does not personally answer any Telephone Calls and that the Telephone is brought to him by an officer who has custody of it.

In response to Question No. 4 (iii), the Hon. Prime Minister stated that Mr. Mahendran had called him in the afternoon on 27<sup>th</sup> February 2015, and stated that the CBSL had raised Rs. 10 billion from the Treasury Bond Auction. The Hon. Prime Minister stated that he cannot recall the other conversations, and that these Telephone Calls *“may have been on some other issues. I don’t think I would have spoken him all four times, on this issue.”*

5] In reply to the Hon. Attorney General who asked whether the Hon. Prime Minister was aware whether Mr. Mahendran had carried out a comprehensive study of the Direct Placements and Public Auctions prior to directing that they be stopped/suspended on 27<sup>th</sup> February 2015, the Hon. Prime Minister stated that he was not aware of any such exercise which had been carried out prior to 27<sup>th</sup> February 2015.

6] When the Hon. Attorney General asked the Hon. Prime Minister whether he had verified the assurance given to him by Mr. Mahendran that a conflict of interest would not arise due to Mr. Mahendran son-in-law having an interest in a Primary Dealer entity, the Hon. Prime Minister stated that he had been informed that, Mr. Aloysius would be resigning from the post of Director of Perpetual Treasuries Ltd and that he would be spending his time developing the business of W.M. Mendis and Company Ltd. The Hon. Prime Minister added, *“But, that was all that I knew. I, ... other than that I didn’t know his affairs. And that the same thing that Mr. Arjuna Mahendran told me. He added “I appointed the ‘Gamini Pitipana’ Committee. And the Committee went in. There was no any event on leave. If anything was found against him in the ‘Pitipana Committee’ he had to resign. But, there was nothing against him”.*

7] When the Hon. Attorney General asked the Hon. Prime Minister whether there was specific information conveyed to him that Mr. Mahendran did, in fact, honour the assurance given by him that a conflict of interest would not arise, the Hon. Prime Minister stated that he had no information that Mr. Mahendran deliberately misled him.

The Hon. Prime Minister added that the ‘Pitipana Committee’ and the COPE had not arrived at such a finding.

8] When the Hon. Attorney General asked, *“So in the backdrop of these concerns being raised, did you at any stage, consider whether it would be necessary to instruct Mr. Mahendran to see or check how the on-going issuances should take place in the context of these allegations ?”*, the Hon. Prime Minister replied,

*“No. Once I finished the ‘Pitipana Committee’ it was in the hands of Parliament. To tell me whatever it is wanted. They had examined all of them. In the first COPE Committee got Arjun Aloysius down and examined him. The second COPE Committee didn’t get him down. But, Mr. Arjuna Mahendran was extensively examined by them. So, once it given to Parliament, I didn’t go to interfere again. And I also wanted it to be done by Parliament. Because Parliament have the control of public finance. We want establish the principle. Parliament has to be in control. We established the Parliamentary Finance Committee. I think Honourable member is the Chairman. And now we are passing legislation to give it a budget office. So, that they will be complete control. I think new Monetary Law, there will be a provision to get information from the Central Bank. What happened earlier will not happen again in this country.”.*

- 9] When the Hon. Attorney General asked whether, in view of the ‘Pitipana Committee’ having reported that Perpetual Treasuries Ltd had secured 50% of the accepted Bids at the Treasury Bond Auction held on 27<sup>th</sup> February 2015, and the concerns expressed in the report of the ‘Pitipana Committee’ with regard to the need to high levels of integrity in the conduct of the officials of the CBSL and the request made in the report for necessary remedial measures to be taken, the Hon. Prime Minister had taken any measures to ensure the integrity in the process of issuing Treasury Bonds and in relation to the continuation of Mr. Mahendran as the Governor of the CBSL.

In reply, the Hon. Prime Minister stated:

*“As I explained to you earlier, Mr. Mahendran’s continuation as the Governor dependent on the findings in the Parliament. Because the ‘Pitipana Committee’ specifically didn’t make any reference. And when they handed over, I said is there anything for us, to ask Mahendran to resign or anything..... they said no we can’t... to that this is all that we found. But, kindly go into the relationship between Perpetual Treasuries and Bank of Ceylon, as to how it could be obtained and what happened there. They wanted to really [go] into that relationship between the Bank of Ceylon and Perpetual Treasuries. The question I think here was of this bond issuing good faith or bad faith. So, we had to establish bad faith. But, it had not been obtained at that time. The matter came up and once it went up to in Parliament. Well. That I left it there. In regard to remedial measures ‘Pitipana Committee’ has made certain recommendations. But, since the mandate of the Commission was involved in making recommendations we thought we’ll wait till the Commission report also comes out. Then study the whole recommendations the ‘Pitipana Committee’ report and some recommendations that we have had and go ahead whatever legislation measures we have to make.”.*

- 10] When the Hon. Attorney General asked, “So, in fact the ‘Pitipana Report’ of course confine themselves to the mandate that was given to them by you, when you appointed them?”, the Hon. Prime Minister replied, “Yes. But, at the same time COPE was effecting. Mr. DEW Gunasekara chairing it. So, I couldn’t done a second inquiry parallel to COPE. They would have accused me of bad state [faith]. But, COPE was went in to it. And COPE issued a report. But there was big controversy. As to whether they had done officially or not. On the second occasion we told COPE go ahead. Mr. Sunil Handunetti was made chairman. And they went ahead. And I think all the members came to conclusion that further inquiry was required. Even they could not come to a final finding in that.”.
- 11] In response to a Question asked by the Hon. Attorney General whether the Government had made a policy decision for State Banks to bid at low Yield Rates at the Treasury Bond Auctions on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016, the Hon. Prime Minister replied that there was no such policy decision.
- 12] In reply to the Commission of Inquiry, the Hon. Prime Minister stated that he was not aware of the meetings held at the Ministry of Finance on 28<sup>th</sup> March 2016 and 30<sup>th</sup> March 2016 and that he was not aware whether Mr. Paskaralingam was present at these meetings. He added that Mr. Paskaralingam has an office at the Ministry of Finance.

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## CHAPTER 6

### **THE CBSL, THE MONETARY BOARD OF THE CBSL AND THE GOVERNOR**

#### **Section 6.1 – The CBSL**

The CBSL was established by operation of the provisions of Section 5 of the Monetary Law Act No.58 of 1949, as amended, for the purpose of being the Authority responsible for the administration, supervision and regulation of the Monetary, Financial and Payments System of Sri Lanka.

Section 5 goes on to stipulate that, the CBSL is charged with the duty of securing, with a view to encouraging and promoting the development of the productive resources of Sri Lanka and, as far as is possible by actions authorised by the Monetary Law Act, achieving the objectives of securing: (a) Economic and Price Stability; and (b) Financial System Stability.

The CBSL is statutorily required, by the provisions of Part IV of Chapter II of the Monetary Law Act, to establish and maintain the following Departments:

- (i) A Department of Economic Research, headed by the Director of Economic Research, for the purpose of preparing data and conducting Economic Research for the guidance of the Monetary Board and the Governor in formulating, implementing and executing policies and for the information of the public, in the subjects of money and banking and other economic subjects of general interest - *vide*: Section 25 of the Monetary Law Act;
- (ii) A Department of Bank Supervision, headed by the Director of Bank Supervision, for the purpose of the continuous supervision and periodical examination of all banking institutions in Sri Lanka - *vide*: Section 28 of the Monetary Law Act;
- (iii) Such other Departments as the Monetary Board may consider necessary for the proper and efficient conduct of the business of the CBSL - *vide*: Section 33 of the Monetary Law Act;

Section 45 of the Monetary Law Act requires, *inter alia*, that every officer and servant of the CBSL shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any Banking Institution or Department of the Government that may come to his knowledge in the performance of his duties under the Monetary Law Act. Section 45 goes on to state that, a breach of this duty shall amount to an offence.

The CBSL is statutorily authorised, by the provisions of Part III of Chapter III of the Monetary Law Act, to establish and operate, *inter alia*, one or more of the following Payments and Settlements Systems:

- (i) A System for the Transfer of Funds by and between the CBSL, Commercial Banks and any other institutions, which maintain a Settlement Account with the CBSL and who the CBSL has admitted as a Participant in that Payments and Settlements System - *vide*: Section 62A (1) (a) of the Monetary Law Act;
- (ii) A System for the Transfer and Settlement of Scripless Securities by and between the CBSL and Direct Participants in that Transfer and Settlements System - *vide*: Section 62A (1) (b) of the Monetary Law Act;
- (iii) A System for the Settlement of Payment Obligations arising from the Transfer and Settlement of Scripless Securities carried out under the aforesaid System referred to in (ii) above - *vide*: Section 62A (1) (c) of the Monetary Law Act.

The CBSL is also statutorily authorised, by the provisions of Part III of Chapter III of the Monetary Law Act, to provide Intra-Day Credit, against the Collateral of Securities, to participants in the aforesaid Systems - *vide*: Section 62A (4) (a) of the Monetary Law Act.

It should be noted that, the “Securities” and/or “Scripless Securities” referred to in the above provisions are defined, by Section 112A of the Monetary Law Act, to mean Treasury Bills issued under the Local Treasury Bills Ordinance No. 8 of 1923, as amended, and Registered Stock or Securities issued under the Registered Stock and Securities Ordinance No. 7 of 1937, as amended, and any other Securities issued by the CBSL whether in “Scripless” form or otherwise.

The CBSL is statutorily required, by the provisions of Part V of Chapter V of the Monetary Law Act, to conduct Open Market Operations to secure any of the following purposes:

- (i) To increase liquidity or stabilize the values of Securities issued or guaranteed by the Government to, thereby, promote private investment in such Securities and to prevent or moderate sharp fluctuations in the Quotations such Securities, but, however, without altering fundamental movements resulting from basic changes in the pattern or level of Interest Rates;
- (ii) To increase or decrease the supply, availability and cost of money in accordance with the National Monetary Policy as determined by the Monetary Board - *vide*: Section 90 (1) (a) and (b) of the Monetary Law Act.

Section 90 (3) of the Monetary Law Act stipulates that, if the Monetary Board determines that, an expansion of Money Supply or of Bank Reserves has occurred or is in progress and that this is a threat to the Domestic or International Monetary Stability of Sri Lanka, the Monetary Board is then required to take action to: (i) suspend the purchase of Sri Lanka Rupee Securities in the Open Market, unless the Monetary Board, in special circumstances, unanimously determines that such purchases are necessary in the public interest; and (ii) sell Sri Lanka Rupee Securities in the Open Market only to such extent as Market Conditions permit.

Thereafter, Sections 91 (1) (a) and (b) of the Monetary Law Act state that, in order to carry out the above Operations, the CBSL is authorised to: (a) purchase and sell Securities in the Open Market; and (b) to issue, place, buy and sell Securities of the CBSL.

The provisions of Chapter VI of the Monetary Law Act set out the role of the CBSL as the Fiscal Agent, Banker and Financial Adviser to the Government.

Thus, Section 106 (1) of the Monetary Law Act states that, the CBSL shall act as the Fiscal Agent and Banker of the Government and of Agencies and Institutions acting on behalf of the Government.

Section 107 (1) of the Monetary Law Act stipulates that, the CBSL shall be the Official Depository of the Government and of Agencies and Institutions acting on behalf of the Government provided that, the Monetary Board may authorise a Commercial Bank to accept Government Deposits.

Section 112 of the Monetary Law Act stipulates that, the issue of Government Securities shall be made through the CBSL and that the CBSL shall act as the Agent of the Government and for the account of the Government when issuing such Securities.

Section 112A states that, the CBSL shall provide Facilities: (i) for Non-Commercial Bank Primary Dealers to maintain Accounts at the CBSL for the purpose of making Settlements for Transactions on Securities; (ii) for Direct Participants including Direct Participants who are not Commercial Banks to maintain Accounts with the CBSL for the purpose of holding Scripless Securities and clearing and settling Transactions in Scripless Securities entered into by and between such Direct Participants; and (iii) for the maintenance of a Depository for recording the Direct Participants [or the customers of Dealer Direct Participants] who holds Title to Scripless Securities.

It should be noted that, the terms “Primary Dealer”, “Direct Participant” and “Dealer Direct Participant” referred to in the above provisions are defined, by Section 112A of the Monetary Law Act, to have the same meanings assigned to these terms in the Local Treasury Bills Ordinance and the Registered Stock and Securities Ordinance. Thus, as set out in Section 17 of the Local Treasury Bills Ordinance and Section 58 of the Registered Stock and Securities Ordinance, a “Primary Dealer” means a

Commercial Bank, Company or other person appointed by the Monetary Board for the purpose of dealing with the CBSL as Counter Party in the Primary and Secondary Market in Treasury Bills and Stocks and Securities a “Direct Participant” means a Primary Dealer or other person appointed by the CBSL to be a Direct Participant and a “Dealer Direct Participant” means any Direct Participant appointed by the CBSL to a Dealer Direct Participant.

Section 113 of the Monetary Law Act stipulates that, the CBSL shall, as the Agent of the Government, be responsible for the management of the Public Debt.

Section 120 states that, every officer and servant of the CBSL shall be deemed to be a Public Servant for the purposes of Chapter IX of the Penal Code.

## **Section 6.2 - The Monetary Board**

The Monetary Board of the CBSL [“the Monetary Board”] is a Body Corporate which is incorporated by operation of the provisions of Section 9 (1) of the Monetary Law Act. As set out in Section 9 (2) and Section 9 (3) of the Monetary Law Act, Monetary Board has the power to hold property and assets and incur liabilities in the name of the CBSL and the power to enter into contracts in the name of the CBSL and the power to do and perform all such acts or things as may be necessary for the purposes of the Monetary Law Act.

As specified by Section 8 (1) of the Monetary Law Act, the Monetary Board: (i) shall determine the Policies or Measures authorised to be adopted or taken under the Monetary Law Act; (ii) is vested with the powers, duties and functions of the CBSL under the Monetary Law Act; and (iii) is generally responsible for the management and administration of the CBSL.

However, Section 8 (2) gives the Monetary Board the authority, where it considers it appropriate, to delegate to the Governor or to any other officer of the CBSL, any of the powers, duties or functions imposed or conferred on the Monetary Board by Section 10 (a), (b), (bb) and (d) and Section 27 of the Monetary Law Act – *ie*: the powers, duties and functions of appointing and removing officers and servants of the CBSL and determining their terms of service; establishing and regulating pensions and provident funds for the benefit of officers and servants of the CBSL; granting housing loans and advances to officers and servants of the CBSL; utilizing the funds of the CBSL for the purpose of meeting expenditure incurred in the management, administration and operation of the CBSL and in the exercise, performance and discharge of the powers, functions and responsibilities of the CBSL under the Monetary Law Act; and promoting and sponsoring the training of technical personnel in the subjects of money, banking, statistics, finance and other economic subjects.

As specified by Section 8 (2) of the Monetary Law Act, the Monetary Board comprises of the Governor of the CBSL - who is the Chairman of the Monetary Board, the person holding the office of the Secretary to the Ministry of Finance and 3 members appointed by the President on the recommendation of the Minister of Finance, with the concurrence of the Constitutional Council.

Section 8 (3) of the Monetary Law Act states that, in the absence of the Governor from any meeting of the Monetary Board, the Deputy Governor designated as senior by the Monetary Board shall act as his alternate and preside at the meeting and have a right to vote at the meeting.

Section 120 of the Monetary Law Act states that, every member of the Monetary Board shall be deemed to be a Public Servant for the purposes of Chapter IX of the Penal Code.

Section 13 (1) of the Monetary Law Act provides that, both the term of office of a Governor and the term of office of an appointed member, shall be 6 years from the date of his or her appointment. Section 13 (2) states that, if a Governor or appointed member vacates office before the end of his or her term, another person shall be appointed to hold that office during the unexpired part of the term of office of the Governor or appointed member who vacated office.

Section 17 (1) of the Monetary Law Act stipulates that, meetings of the Monetary Board must be held at least once in every two weeks and goes on to state that, *"in addition"*, meetings of the Monetary Board should be held *"as frequently as is necessary for the purpose of the discharge of responsibilities under the Act."*

Section 17 (2) places the responsibility of convening meetings of the Monetary Board, upon the Governor,

Section 17 (3) stipulates that, at any meeting of the Monetary Board, the presence of 3 members shall constitute a quorum.

Section 18 of the Monetary Law Act states that, the Deputy Governor designated as the Deputy Governor by the Monetary Board, may attend meetings of the Monetary Board but shall not have the right to vote on any question.

Section 63 (1) in Part I of Chapter IV of the Monetary Law Act, which deals with "Domestic Monetary Stabilization", places a duty on the Monetary Board to endeavour to regulate the supply, availability and cost of money to so as to secure, so as far as is possible by actions authorised under the Monetary Law Act, the objects of securing Economic and Price Stability and Financial System Stability, with a view to encouraging and promoting the development of the productive resources of Sri Lanka, as specified in Section 5 of the Monetary Law Act.

Section 63 (2) states that, when the Monetary Board determines Domestic Monetary Policies, it shall consider the effect of such Monetary Policies on Sri Lanka's

International Financial Position as evidenced by the relation of Domestic Prices and Costs to World Prices and Costs, the level and composition of Sri Lanka's Imports and Exports, Sri Lanka's International Balance of Payments and, ultimately, Sri Lanka's ability to maintain the international stability of the Sri Lanka Rupee and its free convertibility for Current International Transactions.

Section 65 in Part II of Chapter IV of the Monetary Law Act, which deals with "International Monetary Stabilization", states that, when the Monetary Board determines International Monetary Policy, it shall endeavour to maintain the par value of the Sri Lanka Rupee and where no determination of such par value has been made, to maintain such exchange arrangements as are consistent with the underlying trends in the country and so relate the Rate of Exchange of the Sri Lanka Rupee with other Currencies, so as to assure its free use for Current International Transactions.

At this point, it is relevant to state here, some relevant observations made by John Exter, who is the architect of the Monetary Law Act and was the Founder Governor of the CBSL. Exter was a US Federal Reserve officer who, at the request of the Government of Ceylon [as it then was], studied the need for a Central Bank in Ceylon and drafted the Monetary Law Act with the assistance of Ceylonese experts in the field of Central Banking. His "Report on the Establishment of a Central Bank for Ceylon" – which is eponymously known as the Exter Report, was published in November 1949 and is reported in the Session Paper XIV – 1949.

Exter's views on the constitution of Monetary Board were, "... *prestige attaches to membership on a small board, thus making it easier to attract outstanding men. In contrast with large boards where responsibility often tends to be so diffused that members do not take sufficient interest, a small board makes for a healthy concentration of responsibility.*".

With regard to the function of the Secretary to the Ministry of Finance as an *ex officio* member of the Monetary Board, Exter observed, "*The ideal which it is hoped that the proposed law will achieve is one in which there will be continuous and constructive co-operation between the Monetary Board and the Government. The principal instrument for achieving this co-operation should be the Permanent Secretary to the Ministry of Finance whose membership on the Board will ensure at all times that his Minister's views will be made known to the other members of the Board. The effectiveness of this cooperation and co-ordination between the Board and the Government will depend more upon the men occupying the key positions at particular times than upon any legal formula, no matter how carefully or elaborately it might be worked out. A relationship as complex, and sometimes as delicate, as this one is certain to be, cannot be established full-blown by a piece of legislation. It must be the result, as in other countries, of years of experience and the slow growth of political conventions.*"

While much has changed in the 6 decades and more which have lapsed since Exter wrote those words, they still ring true and are relevant.



### **Section 6.3 - The Governor**

Section 12 (1) of the Monetary Law Act states the Governor of the CBSL shall be appointed by the President on the recommendation of the Minister of Finance.

Section 16 of the Monetary Law Act provides that, the President may, on the recommendation of the Minister of Finance, remove the Governor of the CBSL if: (i) the Governor becomes disqualified under Section 11 of the Monetary Law Act by reason of becoming a Member of Parliament or a member of a Provincial Council or Local Authority; (ii) by reason of being appointed a Public Officer or a Judicial Officer; or (iii) by reason of being appointed a Director, Officer, Employee or Shareholder of any Banking Institution; or (iv) if the Governor becomes permanently incapable of performing his duties; (v) if the Governor has done any act or thing which, in the opinion of the President, is of a fraudulent or illegal character or is manifestly opposed to the objects and interests of the CBSL; (vi) if the Governor does not devote his full professional time to the Business of the Bank; or (vii) or if the Governor accepts any other office or employment whatsoever whether public or private and whether remunerated or not [but subject to a few specified exemptions] .

Section 19 (1) of the Monetary Law Act states the Governor of the CBSL shall be the Chief Executive Officer of the CBSL and, accordingly, shall be charged with the powers, duties and functions of : (a) executing Policies and Measures approved by the Monetary Board and supervising and controlling the operation of the CBSL and its Internal Management and Administration, subject to any such Policies and Measures approved by the Monetary Board; (b) preparing the Agenda for meetings of the Monetary Board and submitting, for the consideration of the Monetary Board, Policies and Measures considered by the Governor to be necessary for the purpose of carrying out the principles and provisions of the Monetary Law Act; and (c) exercising or performing such other powers and duties as may be conferred or imposed on the Governor Monetary Board.

Section 20 of the Monetary Law Act states the Governor shall be the principal representative of the CBSL and the Monetary Board.

Section 24 of the Monetary Law Act states that, in the temporary absence of the Governor or any temporary inability of the Governor to perform his functions or duties, the Deputy Governor designated as senior by the Monetary Board, shall act as the Chief Executive Officer of the CBSL and shall have the authority to execute the powers and functions of the Governor under the Monetary Law Act.

John Exter's perceptive and far sighted description of the nature of the office of Governor of the Central Bank and the character and expertise required of a Governor, should be cited here since they remain very true and relevant. In this connection, Exter

said, "Although the ultimate authority rests in the Monetary Board, the draft law nevertheless recognizes need for a strong chief executive for the Central Bank. Accordingly, the Governor is made the Chairman of the Monetary Board, and is given control of the agenda for its meetings. He is to be responsible for the execution and administration of policies and measures adopted by the Monetary Board, for the direction, supervision and control of the operations of the Central Bank, and for its internal management and administration. He is to be chief representative of the Bank in its relations with outside persons, including the Government and its agencies, foreign governments and their agencies, and international financial and other institutions. He will be required to devote his full professional time to the business of the Central Bank. Since the other two members of the Monetary Board will be part-time members and because the problems facing central bankers are frequently complex and technical, it is to be expected that the full-time Governor will ordinarily be the most influential member of the Board and will tend to dominate it. Accordingly, the Governor should be a man of recognized and outstanding competence in and understanding of the economic and financial problems of Ceylon, and of unquestioned integrity and responsibility. In order to attract such a man it is recommended that his salary be set at the highest possible level not inconsistent with remuneration in top-ranking posts elsewhere in the Government and its agencies. General functions and duties of Governor. It is important that the Governor should have had actual financial experience. In many countries this point has actually been incorporated in legislation, as the following quotation from De Kock's book on Central Banking shows: "... in the case of some central banks it has been laid down by statute that the Governor and Deputy-Governor shall be 'men of proven financial experience', as in Canada, or 'persons possessed of actual banking experience', as in New Zealand, or 'persons of recognised banking and financial experience', as in Argentina, or that the Governor shall be a 'person of tested banking experience', as in the Union of South Africa and Mexico."

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## CHAPTER 7

### **TREASURY BILLS, TREASURY BONDS AND OTHER GOVERNMENT SECURITIES**

For the purposes of this Report, we need to briefly refer to the following types of Government Securities:

- (i) Treasury Bills.
- (ii) Treasury Bonds.
- (iii) Other Government Securities such as Sri Lanka Development Bonds. And Sovereign Bonds.

#### **Treasury Bills**

Section 2 (1) of the Local Treasury Bills Ordinance No. 08 of 1923, authorizes the Government to issue **Treasury Bills**, for the purpose of raising Public Debt. The maximum aggregate value of Treasury Bills which may be raised and remain outstanding during a year, is specified by Parliament.

Section 2 (3) of the Local Treasury Bills Ordinance states that, Treasury Bills may be issued either in the form of Written Certificates or as Scripless Treasury Bills. At present, only Scripless Treasury Bills are issued.

Sections 3, 4 and 6 of the Local Treasury Bills Ordinance stipulate that, the Principal Sums payable upon Treasury Bills are charged to and are paid from the Consolidated Fund and Assets of Sri Lanka..

As set out in Section 5 of the Local Treasury Bills Ordinance, Treasury Bills are issued in Units of Rs. 1000/- and are payable at Par Value on Maturity. Further, it is specified that, the maximum Tenor of a Treasury Bill shall not be later than one year from the date of issue. Thus, Treasury Bills are usually issued at a discount.

As set out in Sections 8, 11 and 15A of the Local Treasury Bills Ordinance, Treasury Bills are transferable and may be pledged or otherwise transacted.

As provided for in Part VI of the Monetary Law Act, the CBSL acts as the Agent of the Government, in the issuance of Treasury Bills and the management of Treasury Bills.

The issue of Treasury Bills is not within the Mandate of this Commission of Inquiry. Therefore, subject of Treasury Bills need not be considered further in this Report.

## Treasury Bonds

Section 2 (1) (d) of the Registered Stock and Securities Ordinance No. 7 of 1937, *inter alia*, authorizes the Government to issue of “*Securities*” in the form of **Treasury Bonds**, for the purpose of raising Public Debt.

As set out in Section 4 (1) of the Registered Stock and Securities Ordinance, the Minister of Finance is required to make an Order specifying, *inter alia*, the amount to be raised on a Treasury Bond, the Rate of Interest payable thereon, the Dates on which Interest will be paid and the Date of Redemption of the Treasury Bond. Section 4 (2) restricts the maximum tenor of a Treasury Bond to 60 years.

Sections 21A (1) of the Registered Stock and Securities Ordinance stipulates that, the issue of a Treasury Bond binds the Government to pay the Principal Sum and Interest thereon, at the Interest Rate and on the Dates specified by the Minister of Finance in the aforesaid Order made under Section 4.

Sections 21A (2) of the Registered Stock and Securities Ordinance provides that, Treasury Bonds may be issued either in the form of Written Certificates or as Scripless Treasury Bonds. At present, only Scripless Treasury Bonds are issued.

Sections 3 and 22 of the Registered Stocks and Securities Ordinance stipulate that, the Principal Sums and Interest payable upon Treasury Bonds are charged to and are paid from the Consolidated Fund and Assets of Sri Lanka and that, the Proceeds of the issue of Treasury Bills shall be paid into the Treasury.

Sections 27, 28, 29, 30, 30A, 31, 32, 33 and 33 A of the Registered Stock and Securities Ordinance provide for the establishment and maintenance of a “Sinking Fund” to fund the redemption in respect of Treasury Bonds. However, it is apparent that, a “Sinking Fund” has not been operated for many years. Mr. Dhammika Nanayakkara, who served as the Superintended of Public Debt from 2013 to 2015, stated that the a “Sinking Fund” is not maintained. Dr. W.A. Wijewardena testified that, the practice of operating a “Sinking Fund” was done away with in or about 1987. No witness from the CBSL who testified before us spoke of a “Sinking Fund”. We have not been furnished with any documents or other material relating to this matter. However, we would assume that, in view of the evidence before us that, at some point in time in the past, a Declaration would have been made by a Minister of Finance, under Section 33A of the Registered Stock and Securities Ordinance, to the effect that, no contributions are to be made to a “Sinking Fund” out the Consolidated Fund and Assets of Sri Lanka to provide for the redemption of Treasury Bonds and that, instead, provision is to be made in the Appropriation Act, for the redemption of Treasury Bonds.

As set out in Sections 21C and 21F of the Registered Stocks and Securities Ordinance, Treasury Bonds are transferable and may be pledged or otherwise transacted.

As provided for in Part VI of the Monetary Law Act, the CBSL acts as the Agent of the Government, in the issuance of Treasury Bonds and the management of Treasury Bonds.

Treasury Bonds are issued in Units which have a Face Value of Rs. 100/- Treasury Bonds are issued for Tenors of 02 years or more. The Government pays a fixed Rate of Interest – which is termed the “Coupon Rate” – on the Face Value of Treasury Bonds. Payment of Interest is made Half Yearly on Dates which are fixed at the time the Treasury Bond is issued. The Face Value of the Treasury Bond is payable at Maturity.

Treasury Bond may be issued “*at par value*” [ie: sold, at the time of issue, for a Price which is the same as the Face Value of the Treasury Bond] or be issued “*at a premium*” [ie: sold, at the time of issue, for a Price which is higher than the Face Value of the Treasury Bond] or be issued “*at a discount*” [ie: sold, at the time of issue, for a Price which is lower than the Face Value of the Treasury Bond]. Whether the Treasury Bond can be issued “*at par value*” or “*at a premium*” or “*at a discount*” will, usually, be determined by the Market.

At the time of issue, Treasury Bonds within the Series which it is issued, are allocated a unique International Security Identification Number [ISIN].

Treasury Bonds are issued on the **Primary Market**, which is where the CBSL issues (sells) the Treasury Bonds. Up to 27<sup>th</sup> February 2015, the issue of Treasury Bonds on the Primary Market was done either at Auctions of Treasury Bonds or by way of the acceptance of Direct Placement of Treasury Bonds. From 27<sup>th</sup> February 2015 until recently, the issue of Treasury Bonds on the Primary Market was done only at Auctions of Treasury Bonds.

Only Primary Dealers and the EPF are permitted to purchase Treasury Bonds at the time they are issued by the CBSL on the Primary Market. Thus, the only Participants in the Primary Market are the CBSL, Primary Dealers and the EPF. In the year 2015, there were 16 licensed Primary Dealers. At present, there are 15 Primary Dealers. Since Treasury Bonds are “marketable” instruments, Primary Dealers and the EPF can buy or sell Treasury Bonds and trade upon Treasury Bonds, between themselves, in the **Secondary Market**.

Corporate institutions and individuals who wish to purchase Treasury Bonds, can do so in the Secondary Market through Accounts they maintain with Primary Dealers. Corporate institutions and individuals who purchase Treasury Bonds from Primary Dealers can hold those Treasury Bonds and receive payment of interest (from the

Government), at the Coupon Rate, on a Half Yearly basis, on the Face Value of the Treasury Bond, while they hold the Treasury Bond. If they hold the Treasury Bond up to its Maturity Date, the Holder will receive payment (from the Government) of the Face Value of the Treasury Bond on the Maturity Date. Alternatively, Corporate institutions and individuals who purchase Treasury Bonds from Primary Dealers can buy or sell or trade upon such Treasury Bonds in the Secondary Market through Accounts they maintain with Primary Dealers.

The issue of Treasury Bonds commenced in 1997. In this connection, the PDD submitted a Board Paper dated 14<sup>th</sup> February 1997, marked, “**C60A1(i)**” to the Monetary Board, recommending that, the Monetary Board approves the issue of a new Government Security – ie: approves the issue of Treasury Bonds to a value of Rs. 10 billion between the months of March to December 1997, by way of Auctions of Treasury Bonds to Primary Dealers.

In the Board Paper, the PDD stated that:

*“T. Bonds will be issued under the provisions of the Registered Stock and Securities Ordinance, as amended by the Registered Stock and Securities Amendment Act No. 32 of 1995.”; and*

*“T. Bonds will be a new Government debt instrument with a medium and long term maturity carrying interest coupons payable half yearly at a rate specified for each issue. These bonds will be issued on auction basis through Primary Dealers and are transferable by endorsement and delivery. These instruments will be issued in addition to the presently available Treasury Bills and Rupee Loans (Registered Stocks).”; and*

*“The absence of a medium and long term instrument, with a market determined yield has been a hindrance to the development of a yield curve for debt securities. Yields of T. Bonds will be market determined as these bonds will be issued with coupons and will be sold in auction. The investors will be able to purchase these bonds at market determined yield rates. The addition of T. Bonds to the debt securities market inter alia, will facilitate the development of the money and capital markets by providing a benchmark for private debt securities.”; and*

*“The introduction of the new debt instrument will also strengthen the secondary market for Government Securities. The only government debt instrument that is traded in the secondary market, at present is T. Bills.”; and*

*“As T. Bond issues will be a part of the borrowing programme of the Government and as the Central Bank is not permitted to subscribe to primary issue of T. Bonds, it would be necessary to make special arrangements to ensure total subscriptions to these Bonds. The following special arrangements have been made in order to ensure total subscription.*



- i. *A minimum level of participation has been fixed for each Primary Dealer depending on its level of performance in primary auction of Treasury bills. This level will range from 2 per cent at the minimum to 10 per cent at the maximum, varying with the performance of each Primary Dealer; and*
- ii. *In order to ensure that the market behaves in an orderly manner the Superintendent, Employees' Provident Fund (S/EPF) will also be permitted to bid at these auctions. This will in addition help to ensure that the issue will be fully subscribed; and*

*"Auctions will be held twice a month. The Central Bank will determine the maturity, coupon rate and the amount to be issued at each auction. The auction procedure will be similar to that of Treasury Bills. A new computer based system has been developed inhouse in the Public Debt Department to deal with T. Bond auctions. The Public Debt Department will also make recommendations in regard to the acceptance/rejection of bids to the T. Bond Tender Board, the decision of which will be final as regards the price and amount to be accepted. "*

The recommendations made by the PDD in this Board Paper are:

*"The Monetary Board is invited to approve of;*

- a) *Recommending to the Government.*
  - i) *The auction of T. Bonds carrying a half yearly coupon rate through Primary Dealers commencing March 1997;*
  - ii) *The issue of T. Bonds amounting to Rs. 10,000 million from March to December 1997; and*
  - iii) *That the coupon rate and the maturity of Bonds be determined by the Central Bank.*
- b) *The Central Bank making administrative arrangements for the issue of T. Bonds from the first week of March 1997.*
- c) i) *appointment of Primary Dealers for Treasury bills as Primary Dealers for T. Bonds; and*
  - ii) *appointment of Treasury Bill Tender Board to act as T. Bond Tender Board; and*
- d) *the arrangements proposed in this Board Paper for the subscription by EPF of any shortfall in any issue of T. Bonds."*

Having considered this Board Paper, the Monetary Board granted the following approval on 14<sup>th</sup> February 1997, which was marked “**C60A1(ii)**”:

*“The Board approved of:*

- a) *Recommending to the Government-*

  - i) *the auction of Treasury Bonds carrying a half yearly coupon rate through Primary Dealers commencing March, 1997;*
  - ii) *the issue of Treasury Bonds amounting to Rs. 10,000 million from March to December, 1997; and*
  - iii) *that the coupon rate and the maturity of Bonds be determined by the Central Bank.*

- b) *The Central Bank making administrative arrangements for the issue of Treasury Bonds from the first week of March 1997.*
- c)
  - i) *appointment of Primary Dealers for Treasury Bills as Primary Dealers for Treasury Bills as Primary Dealers for Treasury Bonds; and*
  - ii) *appointment of Treasury Bill Tender Board to act as Treasury Bonds Tender Board; and*
- d) *The arrangements proposed in this Board Paper for the subscription by EPF of any shortfall in any issue of Treasury Bonds.*

Thus, from March 1997 onwards the CBSL issued Treasury Bonds at Auctions at which Primary Dealers and the EPF were permitted to bid.

By a Board Paper titled “*Access to Primary Auctions of Treasury Bonds – Central Bank managed funds*”, dated 12<sup>th</sup> June 1998 and marked, “**C60A2(i)**”, the PDD sought approval from the Monetary Board to accept Non-Competitive Bids from Central Bank Managed Funds at Primary Auctions of Treasury Bonds at the Weighted Average Price of that Auction.

Having considered this recommendation, the Monetary Board granted the following approval on 12<sup>th</sup> June 1998, which was marked “**C60A2(ii)**”:

*“The Board approved of accepting non-competitive bids from the Central Bank managed funds in primary auctions of Treasury Bonds at the weighted average price of the respective auction.”.*

Thereafter, by a Board Paper dated 12<sup>th</sup> June 2003, marked “**C60A3(i)**”, the PDD sought to obtain the Monetary Board approval to permit Funds managed by the Monetary Board to bid at Primary Auctions of Treasury Bonds through Primary Dealers.

Having considered this recommendation, the Monetary Board granted the following approval on 12<sup>th</sup> June 2003, which was marked “**C60A3(ii)**”:

*“The Board approved of the following:*

(a) *Suspending direct primary auction participation of funds managed by the Monetary Board at the weighted average yield rate with effect from 1.9.2003;*

*and*

(b) *Permitting the funds managed by the Monetary Board to participate at primary auctions through Primary Dealers.”*

By a Board Paper dated 07<sup>th</sup> January 2008, marked, “**C60A4(i)**”, the PDD recommended to the Monetary Board, that Treasury Bonds also be issued through Direct Placements to “*captive type investors*” and recommended that medium and long term (of 6,10 and 18 years) Direct Placements of Treasury Bonds be approved.

The Board Paper concluded by stating that, “*The Monetary Board approval is sought for the proposed rate structure to be used for direct placements of Treasury Bonds and Rupee Loans in respect of captive investors such as EPF, NSB and ETF during January- April 2008.*”.

Having considered this recommendation, the Monetary Board granted the following approval on 07<sup>th</sup> January 2008, which was marked “**C60A4(ii)**”:

*“The Board taking into consideration the views expressed by the members, approved:*

(a) *to allow the EPF to invest in longer term Government papers based on long term inflationary expectations plus 4 percent real rate of return and 2 percent risk premium to cover the errors in inflation projections;*

(b) *ETF also to be offered investment opportunities in Government paper on the same basis;*

(c) *For Superintendent of Public Debt (SPD) to negotiate with NSB for investments in Government paper, based on yield rates proposed in the paper; and*

(d) *For the Monetary Board to review the rates after April, 2008.*

*The Board requested SPD to report back to the Board with the progress on the proposal. The Board also requested CBSL to review the primary dealer system as this doesn't seem to raise funds from the market in an effective manner.”*

Thereafter, by a Board Paper dated 02<sup>nd</sup> May 2008, marked, “**C60A5(i)**”, the PDD sought Monetary Board approval “*for the proposed rate structure to be used for direct*

*placements of Treasury Bonds in respect of captive type large investors such as EPF, NSB and ETF during May- December 2008.”.*

Having considered this recommendation, the Monetary Board granted the following approval on 02<sup>nd</sup> May 2008, which was marked “**C60A5(ii)**”:

*“The Board having considered the paper approved of the proposed rate structure to be used for direct placements of Treasury Bonds in respect of captive type large investors such as Employees’ Provident Fund, National Savings Bank and Employees’ Trust Fund during May- December, 2008.”.*

Thereafter, by a Board Paper dated 07<sup>th</sup> October 2008, marked, “**C60A6(i)**”, the PDD sought approval from the Monetary Board to issue Treasury Bonds to the EPF at an Interest Rate which was 5 Basis Points above the Rates which prevailed in the Secondary Market through Private Placements and, further, recommended that, the Monetary Board requests the EPF to create liquidity in the Secondary Market by actively engaging in Secondary Market Operations.

In this connection, the PDD stated:

*“Accordingly, the Monetary Board is invited to approve;*

- (i) To issue Treasury bonds to Employees’ Provident Fund and other captive sources at a interest rate 5 basis points above these secondary market rates through private placements; and*
- (ii) To request the EPF and other captive sources to create liquidity in the secondary market by actively engage in secondary market operations.”.*

Having considered this recommendation, the Monetary Board granted the following approval on 07<sup>th</sup> October 2008, which was marked “**C60A6(ii)**”:

*“The Board having considered the paper approved of:*

- (a) Issuing Treasury Bonds to EPF and other captive sources at an interest rate 5 basis points above the secondary market rates through private placements; and*
- (b) Requesting the EPF and other captive sources to create liquidity in the secondary market by actively engaging in secondary market operations.”.*

Thereafter, by a Board Paper dated 30<sup>th</sup> December 2008, marked “**C60A11(i)**”, the PDD sought Monetary Board approval to:

- i. “Open Treasury bill and Treasury Bond market for Sri Lankan Diaspora and Migrant Workforce within the approved limits of foreign investments in Treasury bills/ Treasury Bonds;*

- ii. *Appoint selected Licensed Commercial Banks (LCBs), Licensed Specialised Banks (LSBs) and Primary Dealers as Lead Managers (LMs) to facilitate this scheme as given in the Annex I, for a period of 3 years and issue them Treasury bills and Treasury bonds at the primary auctions or as direct placements at the latest primary auctions rates whenever the requirement arises.”.*

Having considered this recommendation, the Monetary Board granted the following approval on 30<sup>th</sup> December 2008, which was marked “**C60A6(ii)**”:

*“The Board having considered the paper approved of:*

- (a) *Opening the Treasury bill and Treasury Bond market to the Sri Lankan Diaspora and Migrant Workforce within the existing approved limits of foreign investments in Treasury bills/Treasury bonds, which are up to 10% of the outstanding Treasury bill/Treasury Bond stock;*
- (b) *Appointing selected Commercial Banks and Primary Dealers as Lead Managers (LMs), as given in the Annex I of the Board Paper, for a period of 3 years and issuing them Treasury bills and Treasury bonds at the primary auctions or as direct placements at the last primary auctions weighed average rates whenever the requirement arises;*

We have not been furnished with any other documents or other material which would suggest that, the Monetary Board has considered or issued any further Approvals or Directions with regard to the basis on which Treasury Bonds are to be issued.

It is evident from the aforesaid documents that, the Monetary Board has approved the issue of Treasury Bonds by way of Direct Placements only:

- (i) To the EPF and “*other Captive Sources*” and that, the PDD considered the term “*Captive Sources*” to mean only institutions such as the EPF, the National Savings Bank and the Employees’ Trust Fund;
- (ii) In very limited circumstances, to qualified Non-Resident Sri Lankans who are permitted to bid through selected Primary Dealers.

However, the evidence before us establishes that, the PDD has, over a long period of time, accepted Direct Placements from sources other than “*Captive Sources*”. Specifically, for many years, the PDD has accepted Direct Placements from Primary Dealers. Thus, the Auditor General’s Reports, which are marked “**C154A**” to “**C154H**” and are referred to later on, show that, this practice of accepting Direct Placements from Primary Dealers was followed continuously from 2008 onwards until the acceptance of Direct Placement ceased on 27<sup>th</sup> February 2015. For example, the Report marked “**C154A**” states that, in 2008, the PDD accepted Direct Placements to

an aggregate value of Rs. 37.98 billion from 7 Primary Dealers. The Reports marked “C154B” to “C154H” show that, in the years 2009 to 2014, the PDD accepted Direct Placements in considerably larger aggregate amounts. For example, the Report marked “C154G” states that, in 2014, the PDD accepted Direct Placements to an aggregate value of Rs.860.69 billion.

We note that, this practice - of the PDD accepting Direct Placements from Primary Dealers – has not been questioned by the PDD or the Monetary Board, at any stage and has had the tacit approval of the Monetary Board even though the Monetary Board had not given specific approval for this practice.

### **Other Government Securities**

Sri Lanka Development Bonds are issued in Sri Lanka, but are denominated in U.S. Dollars and are, in other aspects, similar to Treasury Bonds. In addition, the Government may borrow monies in Foreign Currency by way of Sovereign Bonds, which are issued in Foreign Markets or by way of Loans denominated in Foreign Currency.

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## CHAPTER 8

### **THE PUBLIC DEBT DEPARTMENT**

As observed earlier, Section 106 (1) of Chapter VI of the Monetary Law Act sets out the role of the CBSL as the Fiscal Agent of the Government, while Section 112 states that, the issuance of Government Securities is made through the CBSL, which shall act as the Agent of the Government and for the account of the Government, when issuing such Government Securities. Section 113 stipulates that the CBSL shall, as the Agent of the Government, be responsible for the management of the Public Debt.

All these functions are carried out by the PDD.

Thus, as stated in the Preface to the Operational Manual of the PDD marked “C47”, *“In terms of the Section 113 of the Monetary Law Act, the Central Bank of Sri Lanka has been charged with the responsibility for the management of the Public Debt. Accordingly, the Public Debt Department (PDD) engages in function relating to the issuance, servicing and management of domestic debt and servicing of foreign debt on behalf of the government.”*

It should be stated here that this Manual was last updated on 31<sup>st</sup> July 2013. Although the Operational Manual does not appear to have been submitted to the Monetary Board for approval, it has been treated by the CBSL as the authoritative Manual setting out the Procedure to be followed in the PDD.

As set out in the Preface, the PDD consists of the following 6 Divisions:

1. Front Office
2. Middle Office
3. Back Office
4. Central Depository System
5. Supervision Division
6. Support Services Division

Further, as set out in the Organization Chart as at 26<sup>th</sup> July 2013 contained in the Manual, the PDD is headed by the Superintendent of Public Debt. Next, there is an Additional Superintendent of Public Debt who reports to the Superintendent of Public Debt. In 2015 and 2016, there were two Additional Superintendents of Public Debt.

The next level of Officers consists of several Deputy Superintendents who head the 6 Divisions of the PDD. Each Division is headed by a Senior Manager who reports to a Deputy Superintendent. Each Division has the Senior Manager, a Staff Officer and other personnel.

## Front Office [“FO”]

The Manual states that the *“Front Office of the PDD is mainly responsible for mobilizing required funds for the government at the lowest possible cost with reasonable degree of risk through implementation of the domestic borrowing programme approved by the Monetary Board.”* Further, as stated in the Manual, the Front Office has the duty of carrying out special requests made by the Secretary to the Treasury/ Department of Treasury Operations of the Ministry of Finance for special funding requirements.

In the period relevant to the Mandate of this Commission of Inquiry, the PDD, through its Front Office, has issued Treasury Bills, Treasury Bonds and Sri Lanka Development Bonds.

The first section of the Manual sets out the duties of the Front Office.

It is stated there, that the major activities carried out by the Front Office are:

1. Assisting the Middle Office to prepare the Annual Domestic Borrowing Programme based on the Borrowing Limit authorized in the Appropriation Act, for submission to the Monetary Board for consideration and approval.
2. Raising Funds by implementing the approved Annual Domestic Borrowing Programme
3. Monitoring Market Developments.
4. Other Activities to be carried out by the Front Office.

It is also stated that, the Front Office is required to reserve a Gazette Number, in consultation with the Department of Government Printing, for the publication of Gazette Notifications of Treasury Bonds which are issued [in term of the requirement set out in Section 4 of the Registered Stock and Securities Ordinance] and also to prepare the Order Papers and Prospectus of Treasury Bonds required to obtain required authorization from the Finance Minister, as stipulated in the Registered Stock and Securities Ordinance.

Thereafter, the Manual refers to the Domestic Debt Management Committee, which is described as being, *“the committee responsible for taking decisions on raising funds from the domestic market with a view of minimizing the cost and risk of government public debt.”*

The Terms of Reference of the Domestic Debt Management Committee are stated to be:

***“Mandate/TOR***

*The Monetary Board, at its meeting on November 05, 1999 decided to appoint a Domestic Debt Management Committee, DDMC in order to improve domestic debt management strategies.*

*The DDMC consists of the following members.*

*Superintendent of Public Debt (Chairman)  
Director of the State Accounts Department, Ministry of Finance (Member)  
Director of the Domestic Operations Department (Member)  
Director of the Economic Research Department (Member)  
Director of the Statistics Department (Member)  
Additional Superintendent of Public Debt (Secretary).*

*The Committee should report to the Governor, through the Deputy Governor overseeing the Public Debt Department and to the Secretary to the Treasury. The DDMC meets monthly or more frequently if necessary.*

***Objective***

*The objective of the DDMC is to determine the volume, composition and the maturity structure of the issues of domestic public debt and to decide on the borrowing programme in the immediate future considering the cash flow requirements of the Treasury while adhering to budgetary limits and market developments.”.*

Next, it is specified that, the Monthly Borrowing Programme to be prepared by the Domestic Debt Management Committee should include details of the Dates of proposed Auctions, size of Auctions, Maturity Periods, planned Private Placements and special arrangements, if any.

The Manual states that, the Domestic Debt Management Committee should prepare the Monthly Borrowing Programme, *“One week prior to the beginning of each month for the forthcoming month on the basis of the approved annual borrowing programme, the cash flow requirements of the government for the prospective month obtained from the Treasury and resources available in the market.”.*

It is also specified that, the functions of the Front Office include: arranging the meetings of the Domestic Debt Management Committee, preparing the Monthly Borrowing Programme authorized by the Domestic Debt Management Committee, submitting the Monthly Borrowing Programme to the Governor for his approval, communicating, to

Primary Dealers, the details of the Monthly Borrowing Programme and Debt Service Payments and preparing, at the end of each year, Gazette Notifications for all Treasury Bonds issued during that year and then making arrangements with the Government Printing Department, at the end of each year, to publish these Gazette Notifications.

The Manual stipulates that, the Front Office raises Funds through Auctions, Private Placements and Rupee Loans. It should be mentioned here that, that Rupee Loans are no longer used.

With regard to the conduct of Auctions by the Front Office, the Manual states that, *“Government securities are issued through auctions, conducted by the PDD”* and that these Auctions are conducted on an Electronic Platform.

The Manual specifies that, Primary Dealers, who are members of this Electronic Platform, are permitted to place Bids at these Auctions through the Electronic Platform. It is also stipulated that, other Investors may participate in an Auction only through the Primary Dealers and that, for this purpose, such Investors must open Accounts with Primary Dealers. Such Accounts are termed Central Depository System [CDS] Accounts.

It is also specified that each series of Treasury Bills and Treasury Bonds must be identified by an “International Securities Identification Number” ([ISIN]).

The Front Office is required to publish advertisements, in three languages in two national newspapers, for all Treasury Bond and Treasury Bill Issues. These advertisements must invite Bids from the Public. It is stated in the Manual, that advertisements concerning Treasury Bill Issues should usually be published two days prior to the Auction and that, advertisements concerning Treasury Bond Issues should be published one day prior to the Auction. Front Office is required to publish these details through electronic media as well.

On the day of the Auction, the Front Office must announce each Auction to the Market through the Electronic Bidding Facility by 8.30am. Thereafter, Primary Dealers are able to place Bids on this Electronic Bidding Facility, which is operated by the PDD. Auctions are required to close at 11am. However, provision is made permitting the Front Office to grant an extension of the closing time, *“if there is any valid reason (e.g. system failure) with the approval of the SPD/DSPD”*.

Every Primary Dealer is required to submit at least one Bid at every Auction. At present, the minimum aggregate value of Bids submitted by a Primary Dealer must be, at least, 10% of the amount offered at the Auction. Once a Bid is submitted, it cannot be withdrawn.

After the Auction is closed, the Front Office is required to prepare a *“summary report giving different types of options with different combinations of cut off/ weighted average prices including the departmental recommendation based on the existing market conditions. The summary report also includes results of the previous relevant*

*auction and basic bid details of the current auction.”. This function is done by a Committee of senior officers of the PDD, headed by the Superintendent of Public Debt. This Committee is known as the “Technical Evaluation Committee”.*

This Option Report has to be submitted by the Front Office to the Treasury Bill/Treasury Bond Committee [ie: Tender Board], which is expected to meet at 12.30pm after the Auction is closed.

The Terms of Reference of the Treasury Bill/Bond Tender Board [Usually referred to as the “Tender Board”] are stated to be

***“Mandate/TOR***

*The Treasury Bill/Bond Tender Board consists of the following members:*

*Deputy Governor (Chairman)*

*Assistant to the Governor (Member)*

*Superintendent of Public Debt (Member)*

*Director, Domestic Operation Department (Member)*

*Director, Economic Research Department (Member)*

*Additional Superintendent of Public Debt (Secretary and Member)*

*The Tender Board should report to the Governor. The Tender Board meets after closing of each and every Treasury Bill/Bond auction.*

***Objective***

*The objective of the Treasury Bill/Bond Tender Board is to determine the maturity-wise volume to be issued and the cut-off point to accept Treasury Bills/Bonds at each auction taking in to account the developments in the market and Treasury’s borrowing needs while adhering to monetary policy requirements of the Central Bank.”.*

The members of the Tender Board are required to *“discuss on existing liquidity position of the market, current market rates and market perceptions, current monetary policy stance and expected reserve money targets and cash flow requirements of the government in deciding the optimal option of a particular Tender.”.*

Thereafter, *“the decision of the Tender Board is submitted for the information and approval of the Governor (as the case may be) by the SPD with a brief note giving existing market developments and respective auction outcome”.*

The Manual states that, *“As soon as the approval of the Governor is obtained for the decision of the Tender Board, PDs are informed about the outcome through the network system”* and *“The PDs are able to download through the system all*

*information on their successful bids as well as total bids received, total bids accepted and the weighted average yield rate/s of the auction.”.*

Next, the Manual states that, *“Soon after the auction results are released to the market, details on successful bids are automatically transferred to the SSS System for crediting the relevant PD accounts subject to settlements on the due dates. The FO makes arrangements.”.*

Thereafter, the Front Office is required to publish a Press Notice stating the outcome of the Auction.

With regard to Private Placements [The terms “Private Placement” and “Direct Placements” seem to have been used PDD and the Monetary Board to interchangeably], the Manual states:

**“ Private/ Direct Placements**

- I. *“FO has to make arrangements to meet financing needs as much as possible through auctions. The balance fund requirements of the Government as indicated in the approved Borrowing Programme may be arranged through Private placements with PDs.”.*
- II. *Initially, FO communicates with relevant institutions to make arrangements for placements. In case of T-bills and T-bonds, placements are arranged at weighted average yield rate (WAYR) / below or at a rate between WAYR and the cut-off yield rate of respective previous auction or at a rate decided by the relevant authorities (General Treasury, Governor or SPD). When there is no respective auction for a particular instrument, the prevailing market rate is applied with the consent of the Governor/ SPD or the General Treasury.”.*

And also

- VI. *A covering approval is obtained from the relevant Assistant Governor/Deputy Governor overseeing the PDD and the Governor for for all private placements of T-bills and T-bonds made in a month usually soon after the relevant month.*

The Front Office is also vested with the duty of preparing a Daily Transaction Summary, a daily Market Information Summary and a Weekly Summary of the Primary and Secondary Market Transactions.



## **Middle Office [“MO”]**

The Chapter on the Middle Office provides that the, *“Middle Office (MO) is responsible for the analytical work on the debt dynamics for risk management on public debt in order to ensure best practices of efficient public debt management. For this purpose, the Division keeps track on the government Borrowing Programme, maintains the domestic debt database and the foreign debt database, disseminates information to external and internal users and engages in research related activities on public debt. Accordingly, the functions carried out by MO are broadly classified in distinctive sections as set below:*

- 1. Database Management*
- 2. Monitoring the Borrowing Programme*
- 3. Information Dissemination*
- 4. Coordination.”*

As mentioned earlier, the Middle Office is vested with the duty of preparing the Annual Domestic Borrowing Programme based on the Borrowing Limit authorized in the Appropriation Act, for submission the Monetary Board Front Officer consideration and approval.

The Middle Office has to also perform the important task of monitoring the Borrowing Limit and tracking Budgetary Estimates.

## **Back Office [“BO”]**

The Chapter on the Back Office states that, the Bank Office *“makes service payments on domestic debt raised by the PDD and foreign debt raised by the Government. The debt servicing includes principal repayment as well as interest payments which have to be made on scheduled times. In discharging these duties BO coordinates with External Resources Department (ERD) and Treasury Operations Department of the Ministry of Finance and several departments of the CBSL viz. Finance Department (FD), Domestic Operations Department (DOD), International Operations Department (IOD), Payment and Settlement Department (PSD) and Management Audit Department (MAD).”*

Thus, the important functions of the Back Office include the settlement of monies due upon Treasury Bills and Treasury at maturity and the servicing of Domestic Debt.

With regard to the settlement of monies due upon Treasury Bills and Treasury Bonds at maturity, by making fund transfers from the Treasury to the CBSL, the Manual states that, the required funds are transferred after Back Office obtains the *“SPD’s approval in advance for the transfer of total required funds from ‘DST A/C No. 4201’ to the ‘PDD*

*Current A/c No. 4203' for the total payments due on the day." It is also stated that, the Back Office should, "On each maturity payment, issue a letter to the Director General of Government Accounts, General Treasury with details of the amounts of the amounts debited from the DST's A/c 4201."*

## **Central Depository System Division ["CDS"]**

The Chapter on the Central Depository System Division states;

### ***"LankaSecure System***

*LankaSecure System which commenced operations in February, 2004 consists of the Scripless Securities Settlement System (SSSS) and the Central Depository System Division (CDS). It settles and records transactions related to government securities in scripless form which, until January, 2004 had been done in scrip (paper) form. The CDS Division ensures that the system availability is kept above the stipulated value of international standards to enable smooth settlement of transactions related to government securities.*

*Settlement of scripless government securities takes place instantaneously as and when transactions are entered into SSSS on delivery versus payment basis (DVP). Securities are transferred from one account to another simultaneously in the form of an electronic data entry with a corresponding fund transfer in the LankaSettle (Real Time Gross Settlement System- RTGS). Accordingly, in an outright buying or selling transaction, there is a buyer whose securities account is credited with securities and a seller whose securities account is debited. The corresponding funds transfer will take place through the RTGS where licensed commercial banks and primary dealers are the participants that holding settlement accounts with the Central Bank. The corresponding accounting entries are made across these settlement accounts. The settlement of securities through the SSSS and funds through the RTGS are confirmed electronically of the participants involved.*

### **Central Depository System**

*CDS is a computer based database which maintains customer-wise records of holdings in government securities. CDS maintains the accounts of LankaSecure participants and individual accounts of each investor and settle their transactions in government securities. The transfer of holdings of scripless securities is recorded electronically in the CDS according to the instructions received from the participants."*

It is specified that, the business hours of LankaSecure are from 8am to 4.30pm on each Business Day.

With regard to the issuance of scrippless Treasury Bills and Treasury Bonds, the Manual states that, *“The Front Office provides International Securities Identification Number (ISINs) and quantities of new issuances to CDS Division. The details of securities to be allocated to primary dealers are getting loaded to the CDS based on primary issuance processing in order to effect issuances of treasury bills and treasury bonds.”.*

### **Supervision Division [“SO”]**

The Chapter on the Supervision Division states:

*“The Primary Dealers (PDs) are dedicated intermediaries appointed by the Monetary Board of CBSL to deal in Government securities.*

*The supervision of PDs is carried out by the Supervision Division of the PDD to ensure sound and safe PD network which infuses greater competition, liquidity and depth in to the government securities market and thereby reduce the borrowing cost of the government and guarantees customer protection by safeguarding their investments. PDs are expected to support the primary issuances of government securities (G-Sec) through underwriting/bidding commitments, success ratios, (future) and improve secondary market trading system, which would contribute to price discovery, enhance liquidity, turnover and encourage holding of G-Sec amongst a wider investor base, which will eventually contribute in achieving the government objective of low cost borrowings at a prudent level of risk. Supervision also ensures the safety of investment in Government Securities.*

*The supervision of PDs is based on a risk-focussed approach, which evaluates whether the PDs have sufficient capability in terms of assets, liabilities and portfolio for managing the risks associated with the business they engage. Supervision of PDs is mainly carried out in terms of the Local Treasury Bill Ordinance, Registered Stock and Securities Ordinance, Regulations issued by the Minister of Finance and Directions issued by the Superintendent of PDD. (SPD)*

*Main functions of the Division are to carry out;*

- 1. Off-site surveillance*
- 2. On-site surveillance*
- 3. Spot examination*
- 4. Policy Formulation*
- 5. Other activities.”.*

## **Support Services Division**

The Chapter on the Support Services Division states that, it *“provides assistance to carry out functions of other Divisions of the Department and handles the activities that are generally falling within the definition of conventional Administrative Divisions.*

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## CHAPTER 9

### THE ANTE-DATED NOTICES PUBLISHED IN THE GAZETTE

During the course of the inquiry, it transpired that the Notice marked “**C25**” which was published in Gazette No. 1895/19 bearing the date 01<sup>st</sup> January 2015 and sets out details with regard to the issuance of Treasury Bonds during the entirety of 2015 [including details of the Auction held on 27<sup>th</sup> February 2015] had, in fact, been printed by the Department of Government Printing, in or about the month of November 2016.

It also transpired that, by a letter dated 24<sup>th</sup> December 2014 marked “**C26**”, the PDD had requested the Department of Government Printing to reserve a Gazette Notice to enable the publication of a Gazette Notice bearing the date 01<sup>st</sup> January 2015.

Further, it was shown that, the details to be included in the Notice had been subsequently furnished by the PDD, to the Department of Government Printing in November 2016. It also transpired that these details provided by the PDD, included the name of the Minister of Finance who held office on 01<sup>st</sup> January 2015 and not the name of the Minister of Finance who held office from soon after the Presidential Election held on 08<sup>th</sup> January 2015.

Unfortunately, due to the nature of the evidence led before us with regard to the above matters and the furore which, consequently, erupted in the media and then was fuelled by a few political minded commentators who weighed in with their opinion without appearing to have a grasp of the facts, the aforesaid “anomaly” in the date of the publication of the Notices in the Government Gazette in 2015, was blown beyond its real proportions and also consumed an excessive amount of the time of this Commission of Inquiry.

Therefore, we wish to clearly state here that:

- (i) The aforesaid Notice was been published in the Government Gazette in order to comply with the requirements of Section 4 of the Registered Stock and Securities Ordinance which states that, the Minister of Finance shall publish an Order in the Government Gazette specifying the sum to be raised on any “*Loan*” raised under and in terms of that Ordinance, the Interest Rate payable on that “*Loan*”, the Dates on which Interest is payable on that “*Loan*” and the Date of redemption of that “*Loan*”, etc.. It is apparent that, when the practice of issuing Treasury Bond at Auctions was commenced in 1997, the requirements of Section 4 applied to Treasury Bonds which were issued after an Auction was held, since Treasury Bonds are issued under and in terms of the Registered Stock and Securities Ordinance;
- (ii) However, this statutory provision, which contemplates the Minister of Finance issuing a Notice on the aforesaid lines *prior to* the issue of a

Treasury Bond, cannot be easily complied with in the modern context where: (a) Treasury Bonds are issued at Auctions at which the aggregate value of Treasury Bonds to be issued can be determined only after the Bids are accepted and the Auction is closed; and also, (b) Direct Placements of Treasury Bonds were accepted through the “Direct Placement Window”, as and when deemed necessary by the PDD.

- (iii) In fact, it can be fairly stated that, in the present day context, it is impractical, if not, impossible, for the PDD to ensure that a Notice in terms of Section 4 of the Registered Stock and Securities Ordinance is published *prior to* the issue of each and every Treasury Bond.

It was conclusively proved, by documentary evidence by the documents in the series marked “C51”, that, in view of this difficulty, there was a long established practice followed by the PDD, in terms of which:

- (i) Towards the end of each year, the PDD would make a written request to the Department of Government Printing to “reserve” a Gazette Number so as to enable the publication of a Notice setting out details with regard to the issuance of Treasury Bonds during the entirety of that year, in a Government Gazette which bears the date 01<sup>st</sup> January of that year in which that “reservation “ was made;
- (ii) Thereafter, sometime in the following year, the PDD would submit, to the Department of Government Printing, the draft Notice setting out details of all the Treasury Bonds issued in the immediately preceding year, for publication in the Government Gazette.

It was also conclusively proved by the documents in the series marked “C51”, that the aforesaid practice of publishing ante-dated Notices in the Government Gazette has been followed by the CBSL for many years prior to 2015 and 2016. In fact, a perusal of the Operational Manual of the PDD marked “C47”, which was last updated on 31<sup>st</sup> July 2013, shows that, this practice of publishing ante-dated Notices in the Government Gazette has been expressly described in the Manual which states that, one of the duties of the Front Office of the PDD is to “*At the end of each year, prepare gazette notifications for all T-bonds, RSs, SLDBs and TLBs issued during the year*” and “*To make necessary arrangements with the Government Printing Department to publish relevant gazette notifications ....*”.

It was also established by the evidence before us that, that these Notices are published by the PDD and that the Ministry of Finance plays no role in the publishing of these Notices.

It is very clear to us that, as elicited during the evidence of the Secretary to the Ministry of Finance, Dr. R.H.S. Samaratunga, the aforesaid “anomaly’ in the date of the



publication of the Notices in the Government Gazette has **no** impact, whatsoever, on the validity and value of the Treasury Bonds which are referred to in such Notices.

Before we conclude this Chapter, we should state that, we consider the provisions of the Registered Stock and Securities Ordinance, which was enacted in 1937, to be outmoded and, as set out above, sometimes impractical.

Accordingly, we have recommended that, the provisions of the Registered Stock and Securities Ordinance are examined with a view to the repeal of this enactment and the enactment of appropriate legislation which not only will meet the requirements and realities of raising Public Debt in the present day but also provide for the Government Securities Market of the future.

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## CHAPTER 10

### RAISING FUNDS FOR THE GOVERNMENT EACH MONTH

Towards the end of each year, the Department of Treasury Operations of the Ministry of Finance prepares the Annual Borrowing Requirement of the Government for the next year, which is based on the Annual Borrowing Limits approved by Parliament for the next year. This Annual Borrowing Programme, which sets out the total requirement of Public Debt which has to be raised during the following year.

This data is then sent by Department of Treasury Operations to the CBSL. Thereafter, the Middle Office of the PDD, using this data, prepares the Central Bank's Government Borrowing Programme for the following year. This Government Borrowing Programme quantifies the value of Treasury Bonds, Treasury Bills and Sri Lanka Development Bonds and any other Government Securities to be issued during the following year.

The PDD submits this Government Borrowing Programme to the Monetary Board for its consideration and approval.

In this connection, the Operational Manual of the PDD states:

*“Once the annual gross borrowing limit of the government is approved and declared by the Parliament through the Appropriation Act for a respective year, an instrument-wise annual debt issuance programme for government debt securities has to be prepared by the Middle Office (MO) for approval of the Monetary Board of the CBSL. And also that, the Middle Officer of the PDD is required, towards the end of each year, to “Recommend issuance programme of Government Securities for the period under consideration by instruments, volumes, interest rates and maturity periods for the approval of the Monetary Board.”.*

Thereafter, the Monetary Board will consider the Government Borrowing Programme for the next year, which has been submitted by the PDD and decide on it. Thus, for example, as set out in the decision taken by the Monetary Board on 11<sup>th</sup> December 2014, which was marked **“C60A10(ii)**, the Monetary Board considered the Government Borrowing Programme for the year 2015 which had been submitted by the PDD and decided that:

*“The Board having considered the paper approved of the following:*

*a) Recommending to the General Treasury of the following:*

*i) New T-bills issuance to be limited to Rs. 15 billion (book value) in 2015;*

- ii) *Gross value of Sri Lanka Development Bonds issuance be fixed at US\$ 1,500 million in 2015 to facilitate the reissuance of the maturing amount of US\$ 715.6 million and proposed new issuances of US\$ 784.4 million, if market conditions allow; and*
  - iii) *The residual amount of the total budgetary requirement in 2015, after taking into account of the financing referred to in a) i) & ii) above, to be met by issuing T-bonds at market rates..*
- b) *The Central Bank to exercise a reasonable degree of flexibility while implementing the Government borrowing programme with appropriate securities, maturities and yield rates to maximize the overall long-term benefits to the Government and the economy; and*
- c) *Allow investment in T-bills and T-bonds by foreigners on conditions favourable to the economy.”.*

Once the Central Bank’s Government Borrowing Programme for the year is decided and approved by the Monetary Board, the execution of that Programme is handled by the Department of Treasury Operations and the PDD.

The first step in this process is that, each month, the Department of Treasury Operations of the Ministry of Finance prepares a detailed “Daily Cash Flow Statement” for the following month.

These Daily Cash Flow Statements are then forwarded by the Department of Treasury Operations to the PDD. Usually, the PDD receives a Daily Cash Flow Statements about a week or ten days before the commencement of the month to which the Daily Cash Flow Statement relates.

The Daily Cash Flow Statements received by the PDD from the Department of Treasury Operations and relating to the months of January 2015 to March 2016, were marked “**C10A**” to “**C24A**”.

These Daily Cash Flow Statements set out the Fund Requirements of the Government on each Working Day during the month and contain the following details:

- (a) The Opening Cash Balance at the commencement of each Working Day of that month.
- (b) The Cash Inflows from the collection of Revenue, on each Working Day during that month,
- (c) The Cash Outflows to meet Recurrent Expenditure, on each Working Day during that month,
- (d) The Cash Outflows to meet the Cost of Interest Payments due from the Government, on each Working Day during that month;

- (e) The Cash Outflows to meet Capital Expenditure, on each Working Day during that month,
- (f) The Cash Outflows on each Working Day during that month, for the repayment of Public Debt by the Government.

As set out in these Daily Cash Flow Statements, when the total Cash Inflow from the collection of Revenue on a particular Working Day is set off against the total Cash Outflows for Recurrent Expenditure, Capital Expenditure, Interest Payments and Repayment of Public Debt on that same day, the resulting Net Sum represents the total sum of Public Debt (if any) that has to be raised on that day to meet the Fiscal needs of the Government on that Working day.

Further, as set out in these Daily Cash Flow Statements, the total sum of Public Debt that has to be raised during that month.

As established by the evidence of several witnesses, such Dr. R.H.S. Samaratinga, the Secretary to the Ministry of Finance, Mr. M.S.D. Ranasiri, former Director General of the Department of Treasury Operations and Mr. S.R. Attygalle, Deputy Secretary to the Treasury, in any instance where the Department of Treasury Operations finds that it requires to raise additional Public Debt during a month, the Department of Treasury Operations will submit a Revised Cash Flow Statement to the PDD, setting out the amended fund requirement. Any such Revised Cash Flow Statements will be sent under cover of a letter addressed by the Director General of the Department of Treasury Operations to the Superintendent of the PDD. During the period of our Mandate, two such Revised Cash Flow Statements had been sent by the Department of Treasury Operations to the PDD in respect of the month of April 2015 and the month of March 2016, These Revised Cash Flow Statements were marked “**C13A1**” and “**C24A1**”, respectively

The second step of the aforesaid process is that, when the PDD receives a Monthly Cash Flow Forecast sent by Department of Treasury Operations, the PDD is required to convene a meeting of the Domestic Debt Management Committee to draw up the “Domestic Borrowing Programme” [also termed the “Monthly Borrowing Programme”] for the next month. The composition of the Domestic Debt Management Committee and its Terms of Reference and the format of the Domestic Borrowing Programme prepared each month, have been set out in Chapter 8.

Several Domestic Borrowing Programmes prepared by the Domestic Debt Management Committee during the period from February 2015 to April 2016 were marked in evidence.

At this point, it is relevant to mention that, a representative of the Ministry of Finance has been included as a member of the Domestic Debt Management Committee since the PDD and Domestic Debt Management Committee must work in coordination with the Ministry of Finance when determining the Domestic Borrowing Programme for any month. Accordingly, the representative of the Ministry of Finance should play an active

role in the decision making of the Domestic Debt Management Committee. The importance of the role played by the representative of the Ministry of Finance, was also highlighted by Dr. W.A. Wijewardena.

However, the evidence establishes that, the representative of the Ministry of Finance had stopped participating at the meetings of the Domestic Debt Management Committee from some time in 2013 or early 2014 onwards. It is regrettable that the CBSL and the Ministry of Finance did not take any action, in 2013 and 2014, to promptly ensure that this default was rectified. We note that, Mr. M.S.D. Ranasiri, the former Director General of the Department of Treasury Operations, stated that, he or another representative of the Ministry of Finance has participated in meetings of the Domestic Debt Management Committee from the month of April 2015 onwards. We trust that this salutary practice is being continued.

The third step of the aforesaid process is that, the PDD holds Auctions of Treasury Bills, Treasury Bonds and Sri Lanka Development Bonds, in terms of the Domestic Borrowing Programme for the month. In addition to the aforesaid process of raising the required quantity of Public Debt by way Auctions, the PDD would, until 27<sup>th</sup> February 2015, also accept Direct Placements of Treasury Bond to satisfy the borrowing need for a month. In fact, a perusal of the Domestic Borrowing Programmes prepared by the Domestic Debt Management Committee up to the month of April 2015 shows that, the Domestic Debt Management Committee planned for a substantial amount of the total value of Treasury Bonds to be issued during each month to be raised by accepting Direct Placements

The fourth step of the aforesaid process is taken where Auctions of Treasury Bills, Treasury Bonds and Sri Lanka Development Bonds, are held or Direct Placements of Treasury Bonds are accepted by the PDD.

In the case of Auctions of Treasury Bills or Treasury Bonds, the amount of Treasury Bills or Treasury Bonds to be accepted at the Auction is determined by the Tender Board after considering the Options recommended by the Technical Evaluation Committee of the PDD. The composition of the Tender Board and its Terms of Reference and these procedures have been set out in Chapter 8.

In the case of Auctions of Treasury Bills or Treasury Bonds, the fifth step of the aforesaid process is for the decision of the Tender Board to be submitted to the Governor for his approval. This procedure has been set out in Chapter 8.

In the case of Auctions of Treasury Bills or Treasury Bonds, the sixth and final step of this process is for the PDD to implement to the decision of the Tender Board, after it has been approved by the Governor, by advising successful Bidders of the Bids that have been accepted, publishing Notice of the Results of the Auction and making arrangements for the settlement of the amounts on the successful Bids and issue of Treasury Bonds or Treasury, on the Settlement Day. These procedures have been described in Chapter 8.

To sum up, this aforesaid process is designed to ensure that the amount of funding required to be raised by way of Public Debt during a month, is determined before the beginning of each month and, thereafter, is raised by the PDD, in accordance with a prepared and known Schedule.

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## CHAPTER 11

### **THE PRIMARY MARKET IN TREASURY BONDS – AUCTIONS AND DIRECT PLACEMENTS - THE MERITS AND DEMERITS OF THESE TWO MODES OF ISSUE**

As stated earlier, Treasury Bonds are issued by the CBSL, in what is known as the Primary Market. As also stated earlier, there are two modes of issue of Treasury Bonds in the Primary Market - *ie*: (i) by the issue of Treasury Bonds at Competitive Auctions and (ii) by the issue Treasury Bonds when the CBSL accepts Direct Placements.

We will in this Chapter, for purposes of completeness, briefly examine the two methods of the issue of Treasury Bonds in the Primary Market and, thereafter, focus on the merits and demerits of the two modes of issuing Treasury Bonds in the Primary Market.

Firstly, with regard to **Auctions**, the Procedure to be followed when holding an Auction has been described in some detail in Chapter 8, which dealt with the PDD. It has to be noted that the Operational Manual marked “**C47**”, states that the “*FO has to make arrangements to meet financing needs as much as possible through auctions. The balance fund requirements of the Government as indicated in the approved Borrowing Programme may be arranged through Private placements with PDs.*”

This statement in the Operational Manual of the PDD suggests that, at the time the Operational Manual was updated in 2013, Auctions were held out to be the main method for the issue of Treasury Bonds.

Auctions have the virtue of being, in an ideal Market, a transparent and competitive method of raising Public Debt since an Auction will, in theory, present a ‘level playing field’ at which all Primary Dealers have the opportunity of placing competitive Bids. In theory, every Primary Dealer and can look to success or failure at the Auction based solely on market determined factors and the technical knowledge and competence with which that Primary Dealer assessed the likely Prices at which Bids would be accepted.

Further, raising Public Debt at Auctions confers the advantage of the CBSL and the Government being able to accurately gauge prevailing Market Conditions and to give an opportunity for Interest Rates and Yield Rates to move in directions which are based on Market Realities rather than to artificially suppress Interest Rates or manipulate the Market. Needless to say, a Monetary Policy of artificially suppressing Interest Rates over a long period of time has grave attendant dangers. These risks and the possible consequences were tellingly described to us by Dr. W.A. Wijewardena

But, raising Public Debt at Auction carries an inherent risk that, some Primary Dealers could be placed at an advantage if they benefit from “inside information” or “price sensitive information” received from the CBSL or the Government, with regard to the likely “Cut Off Rates” at which Bids will be accepted at the Auction, the likely aggregate value of Bids that will be accepted at the Auction and other relevant details. This has been described to us as the *“the risk of an asymmetry of information”*.

Raising Public Debt at Auction also carries a risk that, in a Market where Interest Rates and Yield Rates are rising, the CBSL could find itself at the “mercy” of the Market if a majority of Primary Dealers tender Bids at Prices which are unrealistically low and are disadvantageous to the CBSL and the Government but the demands of raising Public Debt leave the CBSL with no option but to accept those Bids.

These risks are likely to be heightened in a Market such as ours in which the CBSL has to meet the Government’s every hungry demands for the raising of large amounts of Public Debt to meet Fiscal needs and receives Bids at Auctions from only a relatively few Primary Dealers.

Next, with regard to **Direct Placements**, it is evident that, as set out in the Board Paper dated 02<sup>nd</sup> May 2008, marked “**C60A5(i)**”, the PDD had found, as early as in May 2008, that when the Government needed to borrow large amounts of money by way of Treasury Bonds, it was *“not be able to raise this total through the normal auction process at a reasonable yield rates. Therefore, the Monetary Board approval was given to raise funds available with captive type large investors through direct placements. Further, considering the bunching problem in the domestic debt, it was instructed to issue long term securities in order to lower the refinancing risk in the future. Accordingly PDD raised Rs. 115.0 bn from EPF, NSB and ETF by issuing Treasury Bonds through direct placements during January- April 2008.”*

Thereafter, as set out in the decision of Monetary Board dated 07<sup>th</sup> October 2008 marked “**C60A6(ii)**”, the Monetary Board approved the acceptance of Direct Placements from the EPF and *“other Captive Sources”*. As stated earlier, it is also evident that the PDD regarded *“Captive Sources”* to be the Employees’ Provident Fund, National Savings Bank, Employees’ Trust Fund, Bank of Ceylon, People’s Bank and Sri Lanka Insurance Corporation and other Institutions which are controlled by the Government.

Thus, it is evident to us that, the Monetary Board had only approved the acceptance of Direct Placements from “Captive Sources”.

The Procedure to be followed when accepting Direct Placements has been described in Chapter 8.

It is evident to us that, these Procedures which applied to Direct Placements, allowed the PDD, to tailor the amount and cost at which Treasury Bonds were raised by opening the Direct Placement Window and accepting Direct Placements as and when

required, rather than by holding an Auction to raise the entire amount of funds required and, thereby, be subject to the Market Price.

Further, the process of accepting Direct Placements is administratively and procedurally much easier, than the process of issuing Treasury Bonds by way of Auctions.

The evidence indicates that, there was a policy adopted by the CBSL in the years between 2008 to 2015, that the overwhelmingly large component of Treasury Bonds should be issued by way of Direct Placements in order to maintain Interest Rates at a low level. In this connection, we have previously mentioned the inherent dangers of a Monetary Policy of artificially suppressing Interest Rates over a long period of time.

It is clear that, in these circumstances, the PDD gradually moved, in the years after 2008, to a framework where the issue of Treasury Bonds by way of accepting Direct Placements constituted the overwhelmingly large proportion of Treasury Bonds issued by the CBSL. The value of Treasury Bonds issued at Auctions, became relatively insignificant.

In fact, over this period of time, the main purpose for which the PDD held Treasury Bond Auctions, from time to time, was to establish the Market Prices for the Tenors of Treasury Bonds that were offered at that Auction and, thereafter, using those Prices to determine the Yield Rates at which the PDD would accept Direct Placements to raise the bulk of the funds required by way of Public Debt.

Thus, Mr. Dhammika Nanayakkara stated: that Direct Placements accounted for 80.2% of Treasury Bond issuances in 2013 while Auctions accounted for 19.8% of the Treasury Bond issuances in that year; Direct Placements accounted for 96.8% of Treasury Bond issuances in the year 2014 while Auctions accounted for 3.2% of the Treasury Bond issuances in that year; During the months of January and February 2015, Direct Placements amounted for 95.9% of the Treasury Bond issuances in those two months and Auctions accounted for 4.1% of the Treasury Bond issuances in those two months.

This evidence is confirmed by the Document marked “C54” certified by the PDD, which states:

Period	Ratio of Direct Placement to Auction (based on Face Value)
Jan 2013- Dec 2013	80.2: 19.8
Jan 2014- Dec 2014	96.8: 3.2
Jan 2015- Feb 2015	95.9: 4.1

It is also evident to us that, over this period of time, the PDD has freely accepted Direct Placements from Primary Dealers who were not “Captive Sources” even though, as observed earlier, the Monetary Board had given approval only for the acceptance of Direct Placements from “Captive Sources”.

However, at all times, the Monetary Board was aware that the PDD was accepting Direct Placements from Primary Dealers who were not “Captive Sources”. This practice has never been questioned by the Monetary Board. Accordingly, it appears that, the Monetary Board had, by its acquiescence, held out to the PDD and the Market that, the acceptance of Direct Placements from Primary Dealers who were not “Captive Sources” had the *de facto* approval of the Monetary Board.

In this connection, we note that, the Minutes of the meeting of the Monetary Board held on 28<sup>th</sup> August 2017 state, *inter alia*, that, “From 2003, details of all direct placements were reported to the Monetary Board and the details were given in the Annual Report which is a Report of the Monetary Board. After 2007, all details were incorporated in the Public Debt Department’s (PDD) debt bulletin. Accordingly, the Board noted that there was implicit approval of the Monetary Board for direct placements.”.

Thus, for example, it is established by the series of Documents marked “C52” that, in 2014, the PDD accepted Direct Placements from Primary Dealers who were not “Captive Sources” on 316 occasions and to an aggregate value of Rs. 225.26 billion. On a percentage basis, the Direct Placements made in 2014 to Primary Dealers who were not “Captive Sources”, constituted approximately 27% of the Direct Placements made in that year. The other 73% of Direct Placements were made to “Captive Sources” such as the EPF and other State Institutions including the Bank of Ceylon, People’s Bank, National Savings Bank and Employees’ Trust Fund.

Next, we consider it relevant to state here that, the Procedures involved in accepting Direct Placements placed a substantial amount of discretion in the hands of the Officers of the PDD with regard to the Primary Dealer from whom Direct Placements were accepted and also the Yield Rates at which Direct Placements were accepted.

In fact, Mr. Dammika Nanayakkara, who was the Superintendent of the PDD from 2012 to 2105, testified that, prior to his Memo dated 20<sup>th</sup> September 2012, marked “**C52A**”, the officers of the Front Officer of the PDD, in consultation with the Superintendent of Public Debt, decided on the Yield Rates at which Treasury Bonds would be accepted by way of Direct Placements. It appears from this evidence that, prior to 20<sup>th</sup> September 2012, the PDD had substantial discretion to decide the Yield Rates at which Treasury Bonds would be accepted by way of Direct Placements without any requirement to obtain approval from the Assistant Governor or Deputy Governor.

Similarly, when the Commission of Inquiry asked Deputy Governor, Ananda Silva whether, prior to 20<sup>th</sup> September 2012, “*there was almost no system in place*” and “*Public Debt Department officials could make direct placements with some freedom*”, Mr. Silva replied in the affirmative. When the Commission of Inquiry asked whether, under the system followed by the PDD until 27<sup>th</sup> February 2015, officers of the PDD still had the discretion to effectively decide on which Primary Dealer made a Direct Placement by the simple method of picking up a telephone and advising a chosen Primary Dealer that the PDD would accept a Direct Placement, Mr. Silva replied in the affirmative.

In such circumstances, it would appear that the only Direction that may have guided the PDD when accepting Direct Placements prior to 20<sup>th</sup> September 2012, was the Monetary Board’s Decision dated 07<sup>th</sup> October 2008 and marked “**C60A6(ii)**” that, Treasury Bonds be issued to, “*EPF and other captive sources at an interest rate 5 basis points above the secondary market rates through private placements.*”.

However, it is evident from the Auditor General’s Reports which were marked “**C154A**” to “**C154H**” and are referred to later on in this Chapter that, there were a large number of instances where Direct Placements were accepted at Yield Rates which were different from the prevailing Rates in the Secondary Market.

Thereafter Mr. Dammika Nanayakkara’s Memo dated 20<sup>th</sup> September 2012 marked “**C52A**”, set out a Policy on Direct Placements on Treasury Bills and Treasury Bonds, which reads as follows:

***“The Policy on Direct Placements of T-bill and T-bond***

***(a) Background***

- i) Public Debt Department (PDD) conducts the issuances of T-bills, T-bonds and Sri Lanka Development Bonds (SLDBs) locally to finance the*

*Treasury's cash-flow requirements. In doing so, T-bills primary auctions are conducted every Wednesday. However, currently T-bond primary auctions are conducted only if there is a maturity of T-bond mainly due to the lack of demand for T-bonds in the market.*

- ii) PDD endeavor to announce to the market the entire requirement to be raised through T-bills, T-bonds and SLDBs. However, when there is no adequate resource (demand) in the market on the auction date, the entire requirement is not announced to the market with a view to avoid undue pressure on yield rates. The difference is raised from the market through direct placements as and when there is demand for such instrument/s.*

**(b) Direct placements of T-bills and SLDB**

- i) Direct placements of T-bills will be conducted only if the T-bills/T-bonds, SLDB Tender Committee of the Central Bank (the Committee) has decided to do so.*
- ii) Such placements shall be made at yield rates not higher than the weighted average yield rates decided at the latest T-bill primary auction.*

**(c) Direct Placements of T-bonds**

- i) Direct placements of T-bond will be conducted only if the Committee has decided to do so.*
- ii) T-bond direct placements shall be conducted at weighted average yield rates decided at the latest primary auction for the particular maturity.*
- iii) If the latest primary auction yield rate of the particular maturity is older than two weeks, the Committee shall decide the yield rate for the direct placement in consideration of the development in macroeconomic variables, the medium and long term macroeconomic outlook, movement in yield rates at subsequent T-bill auctions and also the secondary market yield rates. SPD shall prepare the rates for direct placements and obtain the approval of the Chairman of the Committee through the relevant Assistant Governor.*
- iv) Duly approved yield rates, referred to in (iii) above, shall be used for direct placements of T-bonds.*

*(d) Details of direct placements shall be reported to the Chairman of the Committee on weekly basis."*



Mr. Nanayakkara stated that, from 20<sup>th</sup> September 2012 onwards, the aforesaid Procedure was followed by the PDD when accepting Direct Placements. This was confirmed by other witnesses.

Further, this is Procedure is also reflected in the Operational Manual of the PDD [which was updated after “**C52A**”] and which states, with regard to the Yield Rates at which the PDD could accept Direct Placements, *“In case of T-bills and T-bonds, placements are arranged at weighted average yield rate (WAYR) / below or at a rate between WAYR and the cut-off yield rate of respective previous auction or at a rate decided by the relevant authorities (General Treasury, Governor or SPD). When there is no respective auction for particular instrument, the prevailing market rate is applied with the consent of the Governor / SPD or the General Treasury.”*, and that, *“A covering approval is obtained from the relevant Assistant Governor/Deputy Governor overseeing the PDD and the Governor for all private placements of T-bills and T-bonds made in a month usually soon after the relevant month.”*

The evidence of several witnesses and a perusal of the Procedure set out in “**C52A**” shows that, in accordance with the aforesaid Procedure, the PDD would prepare a Weekly Yield Rate Sheet which set out the Yield Rates at which the PDD may accept Direct Placements of Treasury Bonds of the various Tenors that had been issued. The Yield Rates to be stated in this Weekly Yield Rate Sheet are decided by the PDD, taking into account the information then available to the PDD with regard to the prevailing Yield Rates in the Secondary Market and the Yield Rates at recent Treasury Bond Auctions.

At this point, we should mention that, the evidence before us establishes that, the prevailing Yield Rates in the Secondary Market obtained by the PDD were based on the averages of the “Two Way Quotes” given by Primary Dealers on a daily basis and were not based on the actual Yield Rates at which Transactions were done in the Secondary Market. Further, it is evident that, the “Two Way Quotes” furnished by the Primary Dealers did not necessarily reflect the actual Yield Rates at which a Transaction would be done in the Secondary Market. Further, all the Primary Dealers did not furnish “Two Way Quotes” for all Treasury Bonds which had been issued.

Thus, the Weekly Yield Rate Sheets were prepared by the PDD using unverified information given by Primary Dealers and did not necessarily state the “real” Yield Rates then prevailing in the Secondary Market.

It should be also be mentioned here that, since, trading on the Secondary Market in Treasury Bonds was not done on an Electronic Platform prior to late 2016, the only way in which the PDD could verify the information given by Primary Dealers with regard to prevailing Yield Rates in the Secondary Market would have been by carrying out the tedious and difficult task of cross checking that information against the Transaction Details on the Settlement Systems of the CDS or against the Transaction Information later reported to the PDD by the Primary Dealers. Both were exercises

that the PDD could not carry out on a regular basis, in view of the practical difficulties that are involved.

In this connection, we note that, Mr. Sarathchandra, who served as Superintendent of Public Debt from September 2015 onwards, stated that, in 2015 and until September 2016 [when the “Bloomberg System” was introduced in the CBSL], the PDD did not have accurate and ‘real time’ information with regard to the Treasury Bond Yield Rates prevailing in Secondary Market. In this regard, he said, “..... *recent comparable market information is not available. To make an appropriate decision, consequent to non availability of active secondary market.*” and “*At that time, we didn’t have a proper market information for a secondary market transaction. Now we have.*”.

Further, Mr. Sarathchandra explained that, until September 2016, the PDD officers would call Primary Dealers and ask what the prevailing Treasury Bond Yield Rates in Secondary Market were. He said that, the information that provided by the Primary Dealers in response to such inquiries by the PDD, was not necessarily accurate. In this regard, the witness stated, with regard to the period prior to September 2016. “..... *Actually, we were referring to some secondary market rates. Those are actually not real rates. From the middle office of the Public Debt Department, they called primary dealers, everyday, and they ask their quotes for different tenures (tenors). When they provide these quotes, those may be just, not real transactions. They are just offers and bids in the market. But no real transactions. So, that’s why we decided to have this Bloomberg platform to collect this information.*”.

The Weekly Yield Rate Sheets prepared by the PDD were sent to the Assistant Governor and Deputy Governor for approval and, upon approval, were used by the PDD when accepting Direct Placements of Treasury Bonds during that week.

Thus, it is evident that, under and in terms of the Procedure that was in force in the PDD from 20<sup>th</sup> September 2012 onwards, the PDD continued to have a large amount of discretion in fixing the Yield Rates at which it would accept Direct Placements during a week.

Further, the officers of the PDD were permitted to offer a few additional Basis Points if they felt it was necessary to do so, to attract high value Direct Placements. Several witnesses stated that, this discretion extended up to a limit of 5 Basis Points, which tallies with the aforesaid limit referred to in the Monetary Board’s decision marked “**C60A6(ii)**” [which, however, was limited to “Captive Sources”].

In this regard, Mr. Nanayakkara stated, “*Your Honour the rate sheet contains the approved yield rates and the treasury bond series that are on offer and also the maturity date of the bond and reference to the secondary market yield rates and also an approval sought from the Deputy Governor for volume based inducements as a now generally the yield rates are given in the yield rate sheet and then also we seek if*

*necessary an approval from the Deputy Governor to offer few basis points more when the investors comes in big volumes your Honour.”*

Although, in theory, the approval of the Assistant Governor or Deputy Governor was required to offer a Yield Rate which differed from the Yield Rates set out in the Weekly Yield Rate Sheet, the evidence establishes that, in practice, the officers of the PDD would, after consulting the Superintendent of Public Debt where necessary, accept Direct Placements at Yield Rates which differed from those set out in the Weekly Yield Rate Sheets, if they considered it necessary to offer such Yield Rates. These Transactions were reported to the Assistant Governor or Deputy Governor only after the Transactions were concluded by the PDD.

Further, we note that, the Operational Manual of the PDD stated that, when the PDD wishes to raise funds by way of Direct Placements, the officers of the PDD are required to communicate with Primary Dealers *“to make arrangements for placements”*. This places a substantial amount of discretion in the hands of an officer of the PDD when he decides which “Captive Source” or which Primary Dealer who is not a “Captive Source” he wishes to call to inform that the CBSL was opening its Direct Placement Window and would be accepting Direct Placements. In view of Dr. Aazim’s evidence that, Direct Placements were accepted on a “first come, first serve” basis, the sequence in which an officer of the PDD decides to call several “Captive Sources” or Primary Dealers who are not “Captive Sources”, could give a critical advantage to the first few recipients of such information.

It appears to us that, in the aforesaid circumstances, the Procedures and Practices that were followed by the PDD prior to 2015, provided ample room for an officer of the PDD to give a ‘preferred’ Primary Dealer, the advantages of a few Basis Points on the Yield Rate and/or the advantage of an early indication that the Direct Placement Window will be opened, if that officer was inclined to do so.

It is also apparent to us that, since there are close daily dealings between Primary Dealers and officers of the PDD, relationships are likely to develop between them. This gives rise to the possibility that, in the case of some officers, these connections could venture into areas of impropriety, especially since corrupt Primary Dealers would stand to gain substantially, by bringing about a situation where the officers of the PDD are disposed to give them some advantage when making Direct Placements. It hardly needs to be stated that, a difference of a few Basis Points in the Yield Rate of a high value Treasury Bond, would amount to a substantial sum of money over a period of time.

It is, perhaps, for those reasons that, Dr. Wijewardena agreed that, the integrity of a Direct Placement System is dependent on the due performance of their duties by the officers of the PDD and that any laxity or deliberate abuse of the system by the officers of the PDD would give a Primary Dealer an undue advantage. In fact, in this regard, Dr. Wijewardena spoke of *“rumours”* of officers of the PDD having *“undue friendship”* with Primary Dealers even at the time he served in the CBSL prior to 2009. In this

connection, we also note that, Dr. Wijewardena's evidence indicates he was under the impression that, prior to 2009, all Direct Placements were accepted from "Captive Sources" only. However, the Auditor General's Report marked "C154A" shows that, even in 2008, the PDD was accepting Direct Placements from Primary Dealers who are not "Captive Sources".

In fact, when Deputy Governor, Weerasinghe gave evidence, he agreed that, the system of accepting Direct Placements had not been completely transparent and that, the officers who accept Direct Placements had substantial discretion when deciding the terms on which Direct Placements were to be accepted. He added that, there was a possibility that, in these circumstances, there was room for an "asymmetry of information" available to individual Primary Dealers.

Finally, we wish to refer to the fact that, in pursuance of a request made by the then Hon. Minister of Finance under Section 43(2) of the Monetary Law Act, the Auditor General examined Direct Placements made by the PDD in the Years 2008, 2009, 2010, 2011, 2012, 2013, 2014 and 2015. The Reports prepared by the Auditor General have been marked from "C154A" to "C154H" and are annexed to this Report.

For the purpose of our Report, it is relevant to reproduce some of the Conclusions drawn by the Auditor General regarding Direct Placements made by the PDD during the period 2008 to 2015.

In reply to Question of "Whether adequate internal controls and decision making process were in place to avoid any irregularities that could have arisen from non-transparency fund raising ?", the Auditor General has stated:

"මහ බැංකුව විසින් අරමුදල් රැස්කිරීම් විනිවිද භාවයකින් තොරව සිදු නොවීමටත් අවධිමත් ක්‍රියාවන් සිදුවීම වැලැක්වීමටත් අභ්‍යන්තර පාලන ක්‍රම සහ තීරණ ගැනීමේ ක්‍රියාවලි හඳුන්වාදී තිබූ බවට මහ බැංකුව විසින් මා වෙත අවධාරණය කර තිබුණද ඉහත 01 ඡේදයේ දැක්වෙන වෙලුම් හි ප්‍රශ්න අංක 02 යටතේ දැක්වෙන කරුණු හේතුවෙන් මහ බැංකුව විසින් හඳුන්වා තිබූ එම ක්‍රියාවලීන් පද්ධතීන් ප්‍රමාණවත් නොවන බව සහ එම පාලනයන් අභිබවා කටයුතු සිදු වී ඇති බව සිදු විය හැකි බව නිරීක්ෂණය විය."

In reply to the Question of "Whether yield rates offered on placements were fair and supported with evidence on market yield rates ?", the Auditor General had stated:

"සලකා බලන වර්ෂ 09ක කාලය තුළදී වෙළඳපොළ අනුපාතයන්ට වඩා අඩු ඵලදා අනුපාතයන්ට සහභාගී සමාන වෙළඳපොළ අනුපාතය බැඳුම්කර විවිතාකමින් 57%ක ප්‍රමාණයක් තිකුන් කර තිබුණු බවින් සාපේක්ෂව රජයට අවම පිරිවැයක් වන පරිදි ඵලදා අනුපාතිකයන් තීරණය කර ඇති බව අනාවරණය වේ.

එසේ වුවද 2008 ඔක්තෝබර් 07 දිනැති මුදල් මණ්ඩල තීරණය මගින් වෙළඳපොළ අනුපාතයට Basis point 05ක් එකතු කර ඵලදා අනුපාතය ගණනය කිරීමට අනුමැතිය ලබා දී ඇත්තේ රජයේ සුරැකුම්පත් වෙළඳපොළෙහි වර්ධනය පිළිබඳවද අවධානය යොමුකර යැයි උපකල්පනය කර එම Basis point 05 මූලික පාද මිණුම් දණ්ඩ (Benchmark) ලෙස

යොදාගෙන සලකා බලන විට වෙළෙඳපොළ අනුපාතයට Basis point 05ක් එකතු කර ලබා ගත යුතු නිශ්චිත ඵලදා අනුපාතයෙන් බැහැර වෙනත් ඵලදා අනුපාතයන් සෘජු ක්‍රමයේදී යොදා ගෙන නිවීම ඉහත සඳහන් සුරැකුම්පත් වෙළෙඳපොළ වර්ධනය කිරීමේ අරමුණට අනුකූලද යන්න ප්‍රශ්න ගත වේ. සමාලෝචිත වර්ෂ 09 තුළ සෘජු ක්‍රමයට නිකුත් කර තිබූ මුද්‍ර බඳුම්කර වටිනාකමින් 99% ක්ම වෙළෙඳපොළ අනුපාතයට Basis point 05ක් එකතු කර ලබා ගත යුතු ඵලදා අනුපාතයෙන් බැහැර අනුපාතයන්ට නිකුත් කර ඇති බව නිරීක්ෂණය වේ.

Thus, the Auditor General has concluded that, there had been inadequacies in the Procedures followed by the PDD when accepting Direct Placements and that, in some instances, the officers of the PDD had accepted Direct Placements outside the usual Procedures.

Further, the Auditor General has identified a very large number of instances where the PDD had accepted Direct Placements at Yield Rates which were not within 05 Basis Points of the Yield Rates that were then stated to prevail in the Secondary Market.

For example, the Auditor General has reported that, in the year 2014, the PDD had accepted Direct Placements aggregating to a sum of Rs. 860.69 billion from both “Captive Sources” and Primary Dealers who are not “Captive Sources”.

The aggregate amount of Direct Placements accepted, in 2014, from Primary Dealers who are not “Captive Sources”, was Rs. 225.26 billion – ie: 26% of the total sum of Direct Placements accepted in that year - as set out in the following Table which is part of the Auditor General’s Report marked “C154G”:

ප්‍රාථමික වෙළෙඳ ආයතනය	2014 වර්ෂය තුළ නිකුත් කළ වටිනාකම [මිලියන]
Acuity Securities Ltd.	21,655
Capital Alliance	3,668
Commercial Bank of Ceylon Ltd.	82,005
Entrust Securities PLC.	787
First Capital Treasuries Ltd.	15,075
Hongkong and Shanghai Banking Corp.	36,171
Natwealth Securities Ltd.	1,100



ප්‍රාථමික වෙළෙඳ ආයතනය	2014 වර්ෂය තුළ නිකුත් කළ වටිනාකම [මිලියන]
Perpetual Treasuries	2,500
Seylan Bank PLC	28,235
Wealth Trust Securities Ltd.	34,064
එකතුව	<b>225,260</b>

We note from further information in the Auditor General’s Report marked “**C154G**”, that, the Direct Placements accepted from the aforesaid 10 Primary Dealers who are not “Captive Sources” consisted of approximately 316 separate Direct Placements.

In the case of approximately 224 of these Direct Placements - *ie*: 71% of these Direct Placements - the PDD had granted Yield Rates which differed from the Yield Rates which should have been used in terms of the Procedures referred to above. We have, on further examination of this Report, found that on approximately 99 occasions, the aforesaid difference was 50 or more Basis Points and on 17 of these 99 occasions the difference was 100 basis points or more. The highest difference was 107 basis points.

In these circumstances, there is adequate evidence to form the view that, there is a likelihood that some irregularities have taken place in the acceptance of Direct Placements, prior to 2015.

In these circumstances, we intend to recommend that, an appropriate investigation be carried out to ascertain whether there were significant irregularities in the acceptance of Direct Placements by the PDD during the period 2008 to 2014 and, if so, to identify the officers of the PDD and the superior officers of the CBSL, the Primary Dealers and any other persons who were responsible for such irregularities. Such an investigation should also seek to compute the losses, if any, which may have been incurred by the State as a result of any such irregularities. A Forensic Audit may be appropriate.

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## CHAPTER 12

### **PRIMARY DEALERS**

The appointment of Primary Dealers to deal in Treasury Bills and Treasury Bonds is provided for in the Local Treasury Bills Ordinance No. 8 of 1923 and Registered Stock and Securities Ordinance No. 7 of 1937. Section 17 of the Local Treasury Bills Ordinance defines a Primary Dealer as, “*any commercial bank, company, or other person appointed by the Monetary Board as a primary dealer for the purpose of dealing with the Central Bank as a counterparty in the primary and secondary markets for Treasury Bills.*”, and Section 58 of the Registered Stock and Securities Ordinance defines a Primary Dealer as, “*any commercial bank, company, or other person appointed by the Monetary Board as a primary dealer for the purpose of dealing with the Central Bank as counterparty in the primary and secondary markets for stock and securities.*”.

Primary Dealers are Direct Participants in the settlement systems operated by the CBSL. As stated in Chapter 8 and in the Operational Manual of the PDD:

*“The Primary Dealers (PDs) are dedicated intermediaries appointed by the Monetary Board of CBSL to deal in Government securities.”* and Primary Dealers “*are expected to support the primary issuances of government securities (G-Sec) through underwriting/ bidding commitments, success ratios, (future) and improve secondary market trading system, which would contribute to price discovery, enhance liquidity, turnover and encourage holding of G- Sec amongst a wider investor base, which will eventually contribute in achieving the government objective of low cost borrowings at a prudent level of risk.*”.

At the beginning of the Year 2015, the CBSL had appointed the following 16 Primary Dealers:

1. Acuity Securities Ltd
2. Bank of Ceylon
3. Capital Alliance Ltd
4. Commercial Bank of Ceylon PLC
5. Entrust Securities PLC
6. First Capital Treasuries Ltd
7. NatWealth Securities Ltd
8. NSB Fund Management Co. Ltd
9. Pan Asia Banking Corporation PLC
10. People’s Bank
11. Perpetual Treasuries Ltd

12. Sampath Bank PLC
13. Seylan Bank PLC
14. HSBC
15. Union Bank of Colombo PLC
16. Wealth Trust Securities Ltd.

HSBC stopped operating as a Primary Dealer in 2016.

By the Declarations dated 24<sup>th</sup> June 2009 published in the Government Gazette, the then Minister of Finance declared Regulations made under the Local Treasury Bills Ordinance and the Registered Stock and Securities Ordinance, which are titled, “Local Treasury Bills (Primary Dealers) Regulations No. 01 of 2009” and “Registered Stock and Securities (Primary Dealers) Regulations No. 01 of 2009”. These Regulations, *inter alia*, provide for the criteria applicable for the appointment of Primary Dealers; the supervision, examination and investigation of Primary Dealers; the evaluation of performance of Primary Dealers; and empower the CBSL to issue Directions to Primary Dealers, to ensure compliance with these Regulations.

In terms of these Regulations passed in the year 2009, the functions of supervision, examination and investigation of Primary Dealers were vested in the Superintendent of Public Debt.

It appears to us, that it was unsuitable for the PDD to have been vested with these functions, since the PDD engages in day to day dealings with the Primary Dealers, and, as observed earlier, some officers of the PDD may form close relationships with officers of the Primary Dealers.

This unsuitable situation where the PDD supervised, examined and investigated Primary Dealers continued from June 2009 up to early 2016.

On 08<sup>th</sup> January 2016, the Monetary Board had discussed whether *“the Public Debt Department’s regulatory and supervisory role on the Primary Dealers is in conflict with its role of market development and marketing securities”*. In pursuance of this discussion, Deputy Governor Mr. Samarasiri had submitted a Board Paper, dated 05<sup>th</sup> February 2016, in which he analyzes the situation and recommends that, the regulation and supervision of the Government Securities Market be assigned to the Department of Supervision of Non-Bank Financial Institutions. It is evident from this Board Paper, that one of the reasons that prompted this recommendation was the crisis that had arisen as a result of, what was described in the Board Paper as, *“considerable lapses in the regulatory and supervisory actions of the PDD in the case of Entrust Securities PLC”* and *“In the past, heavy use of private placement window to raise funds in non-compliance with the PDD manual could be considered as one such instance of conflict of interest that may have caused even regulatory forbearance.”*

The Monetary Board considered this Board Paper and sought the advice of the Attorney General with regard to the amendments that were required to the Local

Treasury Bills (Primary Dealers) Regulations No. 01 of 2009 and the Registered Stock and Securities (Primary Dealers) Regulations No. 01 of 2009.

Subsequently, by the Declarations dated 03<sup>rd</sup> June 2016 published in the Government Gazette, the then Minister of Finance made the required amendments to the Local Treasury Bills (Primary Dealers) Regulations No. 01 of 2009 and Registered Stock and Securities (Primary Dealers) Regulations No. 01 of 2009 and declared that, the functions of supervision, examination and investigation of Primary Dealers were vested in the Director of the Department of Supervision of Non-Bank Financial Institutions.

Pursuant to this measure, the supervision of Primary Dealers has been carried out by the Department of Supervision of Non-Bank Financial Institutions. We consider this to be a salutary change, which had been unduly delayed. In our view, the PDD should not have been vested with the function of supervising Primary Dealers.

In July 2003, the CBSL, acting in terms of the power vested in the CBSL, by the provisions of the Registered Stock and Securities Ordinance and the Declarations made thereunder, to issue Directions to Primary Dealers, issued the “Code of Conduct for Primary Dealers”, which was marked “**C48**”.

This Code of Conduct binds all Primary Dealers and states, *inter alia*:

- “1.4. *The code of conduct is to be observed in a manner that accords with its plain meaning and intention. It is to be interpreted broadly to achieve the objective that a primary dealer acts reliably and professionally in the best interest of its customers and the integrity of the market for government securities.*”.
- “2.1. *A primary dealer, its directors and employees are required to comply with the code of conduct. A primary dealer is responsible for the actions of its directors and employees in the government securities market.*”.
- “3.6. *A primary dealer or any director or employee of a primary dealer must not give or offer, directly or indirectly, to any director, employee, shareholder or agent of a customer, any inducement in relation to any business of the customer with the primary dealer, unless the prior written consent of the customer has been obtained..... “Inducement” includes any goods, services, advantage, benefit or any other consideration, but does not include normal fees or charges for services.*”.
- “4.1. *S 9(8) of each Regulation requires a primary dealer to maintain strict confidentiality in respect of its dealing with its customers.*”.
- “5.1. *S 9(7) of the Regulations requires a primary dealer to act in a fiduciary capacity in respect of its customers in the holding of, and in the collection and payment of maturity proceeds and interest on, government securities and, for this*

*purpose, to specifically identify and segregate the assets of its customers from its own assets.”.*

- “5.2. A primary dealer must ensure that customer assets are kept separate from its own assets (except to the extent required by law) and that they are properly accounted for and adequately safeguarded.”.*
- “6.1. A primary dealer must at all times in the conduct of its business act in good faith.”.*
- “6.2. A primary dealer must ensure that in the conduct of its business its directors and employees act in good faith.”.*
- “6.6. A primary dealer must not, and must ensure that its directors and employees do not, use material undisclosed information for their own gain or for the advantage or to the disadvantage of others (“insider dealing”).”.*
- “6.7. A primary dealer must not, and must ensure that its directors and employees do not, move or attempt to move prices artificially for their own benefit. (“market manipulation”).”.*
- “7.1. A primary dealer must at all times conduct its business activities in the best interests of its customers and the integrity of the market for government securities.”.*

The Code of Conduct is supplemented by extensive Guidance Notes.

The Guidance Note on Sections 6.1 and 6.2 of the Code of Conduct [which stipulate that, a Primary Dealer must act in good faith when conducting its business and ensure that its Directors and employees also act in good faith] explains that:

*“Overall, this section requires that a primary dealer must establish and maintain high standards of integrity and fairness in all its business dealings.” It must put in place policies that support these high standards and that foster an ethical environment throughout the firm. If a dealer or its directors and employees are not seen by the public to act honourably and fairly, this may lead to questions about the integrity of the government debt securities market as a whole, in addition to damaging the reputation of that dealer.*

*“Good Faith”. Acting in good faith means observance of honourable intent in business relations and the avoidance of any attempt to deceive in assuming and performing contractual obligations; acting honestly and without deception.”.*

The Guidance Note on Section 6.6 of the Code of Conduct [which prohibits “*insider dealing*”] explains the term “*insider dealing*”, in the following manner:

*“Insider dealing . A person or a company has inside information when they have information about an issuer or its securities that has not been publicly disclosed and that it likely to have an effect on the market price of the issuer’s securities when disclosed (also called `price sensitive information’). Trading while in possession of this type of insider information is generally prohibited.”.*

The Guidance Note on Section 6.7 of the Code of Conduct [which prohibits “*market manipulation*”] explains the term “*market manipulation*”, in the following manner:

*“Market Manipulation. Any deliberately dishonest attempt to affect the market price of a security through trading. E.g. forcing the price of a security upward by buying up all available securities.*

We recommend that, the CBSL considers introducing a revised Code of Conduct for Primary Dealers which is updated to provide for the modern day Market and, especially, to take into the technology which is now used and is available.

Further, the preparation of a revised Code of Conduct for Primary Dealers would give the CBSL an opportunity to crystallize into a revised document, the experience gained and lessons learnt over the 14 years that have passed since the Code of Conduct was drafted.

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## CHAPTER 13

### **THE EPF AND OTHER CAPTIVE SOURCES**

We will first consider the Employees' Provident Fund ["EPF"] and, thereafter, describe what the CBSL means when it uses the term "Captive Sources"

With regard to the EPF, we will first consider the objectives and scope of the EPF, the statutory duties of the Monetary Board with regard to the EPF, the staffing and administrative machinery the Monetary Board has put in place to carry out those duties and the Guidelines formulated by the Monetary Board to govern the investment, by the EPF, in Treasury Bonds and Treasury Bills.

Thereafter, we will also briefly refer to some relevant facts and circumstances which emerge from the evidence placed before us, since doing so at this point will be of assistance when, later on in this Report, we consider the transactions entered into by the EPF on Treasury Bonds in the Secondary Market.

The EPF was established, in 1959, by the Employees' Provident Fund Act No.15 of 1958 [hereinafter referred to as the "EPF Act"], to *"ESTABLISH A PROVIDENT FUND FOR THE BENEFIT OF CERTAIN CLASSES OF EMPLOYEES AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO."*

As stated in the Website of the Department of Labour, the main objective of establishing the Fund, is to provide Social Security or protection to employees after they retire. Under the Scheme set out in the EPF Act, almost all employees in the Private Sector and Corporation Sector and also employees of several State institutions, are members of the EPF.

The EPF Scheme is a Contributory Social Security Scheme, where at present, as specified in Section 10 of the EPF Act, the employee contributes 8% of his monthly earnings to the EPF and the employer contributes 12% of the employee's total earnings to the EPF. The employer's contribution to the EPF has to be paid from the employer's funds and is not recovered from the employee's income. The employer is required to remit both contributions to the EPF, each month.

The management of the EPF then invests all those monies. When a member of the EPF reaches ceased to be in employment or reaches a specified age or upon the happening of other specified events, the EPF pays him or her the total amount contributed by that member and his or her employer together with interest on these monies and other benefits, which are funded from the income earned by the EPF by investing the monies of the EPF.



In terms of Section 4 of the EPF Act, the Commissioner of Labour is responsible for the general administration of the Act.

Section 5 of the EPF Act specifies that the Monetary Board has custody of the monies of the EPF. Thus, all contributions made by or on behalf of members and other income paid or received by the EPF, are received by the CBSL since the Monetary Board has custody of the monies of the EPF.

Section 5 goes on to state that the Monetary Board may invest such monies of the EPF, as are not immediately required for the purposes of the EPF Act, in such Securities as the Monetary Board may consider fit and also vests in the Monetary Board, the power to sell such Securities.

Thereafter, Section 5 requires the Monetary Board to maintain a General Account in respect of the EPF and separate Individual Accounts for each member of the EPF.

Section 5 requires the Monetary Board to pay each member of the EPF, the “*benefits*” to which that member is entitled to under and in terms of the EPF Act.

Thus, it is clear that, in terms of Section 5 of the EPF Act, the Monetary Board has custody of the monies of the EPF, is responsible for the management of the EPF Fund, is responsible for the investment of the monies in the EPF and is responsible to ensure that, the members of the EPF are paid the Benefits to which they are entitled to under the EPF Act.

We are of the view that, these statutory duties placed on the Monetary Board by the EPF Act, have the effect of requiring the Monetary Board to exercise due diligence and care and to act with *uberimmae fides* when the Monetary Board performs its duties connected to the custody and due and proper investment of the monies of the EPF.

Section 5 empowers the Monetary Board to appoint Officers to exercise its powers, perform its duties and discharge its functions under the EPF Act. In pursuance of this statutory authority, the CBSL, many years ago, established a separate Department to manage the EPF. This Department is located at Lloyds Building, No. 13, Sir Baron Jayatileke Mawatha, Colombo 01 and is not within the premises of the main office of the CBSL at Janadhipathi Mawatha, Colombo 01.

In our view, the aforesaid duties placed on the Monetary Board to exercise due diligence and care and to act with *uberimmae fides* in the pursuance of its duties under Section 5 of the EPF Act, places an onus on the Monetary Board to closely supervise and monitor the performance of these officers appointed by the Monetary Board to exercise the Monetary Board’s powers, to perform the Monetary Board’s duties and to discharge the Monetary Board’s functions under the EPF Act.

The onus placed on the CBSL and the Monetary Board to duly and responsibly manage the EPF is highlighted in the EPF website maintained by the CBSL, which states that, the EPF, “..... is currently the largest Social Security Scheme in Sri Lanka.

*With a current asset base of Rs. 1,665 billion, the EPF is a little "Peace of Mind" for the employees of institutions and establishments of the Private Sector, State Sponsored Corporations, Statutory Boards and Private Business. The aim of the EPF is to assure financial stability to the employee in the winter of life and to reward the employee for his or her role in the economic growth of the country."* The EPF website goes on to say that, *"Being the largest Social Security Scheme in Sri Lanka and having over Rs. 1,665 billion of assets, the EPF can ensure you a safe and stable future. The Administrative aspect of the EPF is handled by the Labour Department of Sri Lanka whilst the management of the funds is handled by EPF department of the Central Bank."* and *"Your EPF balance keeps growing as you mature at your working environment as the cumulative balance in your EPF account, which is maintained by the Central Bank, and is invested in Treasury Bills, Treasury Bonds, Equity, Corporate Debentures and Rupee Securities etc. Depending on the rate of return, an annual interest rate is declared and credited to your account. Thus your investment in time and money is safe, sound and growing annually in the hands of the EPF, giving you peace of mind that you will be stable and able to provide for your family and loved ones in the latter part of life. .... Thus you can rest assured that your future is a little bit more stable and secure with the Employees Provident Fund."*

As set out in document marked "**C202**", the EPF Department of the CBSL is headed by a Superintendent of EPF, who is a senior officer of the CBSL. He is assisted by two Additional Superintendents of EPF and two Deputy Superintendents of EPF. During the period of our mandate, the Superintendent of the EPF Department of the CBSL was Mr. R.A.A. Jayalath. He was transferred out of the EPF Department of the CBSL on 15<sup>th</sup> April 2016.

As set out in "**C202**", the EPF Department of the CBSL consists of the following 15 Divisions:

1. Investment Risk Management Division
2. Statement Contributions Division
3. Current Contributions Division
4. Thirty Percent Loan Division
5. Public Relations, Inquiries, Help Desk and Call Centre
6. Refund Contributions Division
7. Refund Payments Division
8. Housing Loans Division
9. Accounts and Reconciliation Division
10. Corporate Services and Administration Division
11. Record Amendment Division
12. Re-registration Division
13. E-Collection Division
14. Collection Division
15. Fund Management Division

For the purpose of our Report, we are concerned only with the Fund Management Division.

The Fund Management Division consists of the following 3 Units: the Front Office, the Middle Office and the Back Office.

The Head of the Fund Management Division reports to the Superintendent of the EPF Department of the CBSL, through a Deputy Superintendent and an Additional Superintendent.

As set out in “**C202**”, the position of Head of the Fund Management Division was vacant from 01<sup>st</sup> February 2015 up to 31<sup>st</sup> December 2016.

Mr. T. Udayaseelan was the Head of the Front Office from to 01<sup>st</sup> February 2015 up to 30<sup>th</sup> September 2015, on which date he was transferred out of the EPF Department. In fact, there is evidence to show that, Mr. Udayaseelan was the Head of the Front Office prior to 01<sup>st</sup> February 2015 too.

Thereafter, Mr. B.H.I. Saman Kumara was appointed as the Head of the Front Office on 01<sup>st</sup> October 2015 and he continued to hold that position until 09<sup>th</sup> August 2016, when he was transferred to head the Middle Office. Mr. Saman Kumara continued to hold the position of Head of the Middle Office until 31<sup>st</sup> December 2016. He was later replaced in that position by Mr. K.U.B. Tennekoon.

Prior to being appointed Head of the Front Office on 01<sup>st</sup> October 2015, Mr. Saman Kumara was attached the EPF Department of the CBSL from 08<sup>th</sup> June 2015 and had been designated a Senior Assistant Superintendent with responsibilities for the Front Office from 15<sup>th</sup> June 2015 onwards until he was designated as the Head of the Front Office on 01<sup>st</sup> October 2015.

Mr. W.G.R. Harsha Priya was the Head of the Middle Office, during the period of our mandate. Ms. M.N.M. Damayanthi was the Head of the Back Office until 22<sup>nd</sup> June 2015 and, thereafter, Ms. D.L. Rohini was appointed as the Head of the Back Office and she continues to function in that capacity.

It is relevant to mention that, Mr. Saman Kumara had served in the Middle Office of the EPF Department of the CBSL during the period 2010-2013. He had later been transferred to the PDD and served there till he was transferred to the EPF Department of the CBSL on 08<sup>th</sup> June 2015, as mentioned earlier.

As stated above, Section 5(1) of the EPF Act, authorizes the Monetary Board to invest monies of the EPF that are not immediately required for the purposes of the Act in “*securities*” and gives the Monetary Board the discretion to decide on these investments.

The Monetary Board has issued “Investment and Trading Guidelines” to govern the scope of such Investments and set out the Procedure to be followed by the EPF Department of the CBSL when making such Investments.

The document titled, "Investment and Trading Guidelines", which was revised in December 2011 was marked, "**C201A**".

As specified in "**C201A**", the objective of these Guidelines, *"is to streamline the investment decision making process of the Employees' Provident Fund (EPF or the Fund) and to facilitate in maximizing the return on the securities portfolio, while managing the risk at an acceptable level."*

Section 2 of the Guidelines marked "**C201A**" specifically states that, the *"Monetary Board has delegated the investment decision making to the Investment Committee (IC) and the management of the portfolio to the Fund Management Division (FMD) of EPF subject to the conditions as stipulated in the Investment Policy Statement (IPS) approved by the Monetary Board at its meeting No. 32/2001 held on 21.12.2001 and Investment Trading Guidelines (ITG) approved by the Monetary Board at its meeting No.09/2007 held on 27.03.2007 and subject to ratification by Monetary Board. The revised IPS and ITG in December 2011 replace the above mentioned documents, respectively."*

Section 2 of the Guidelines marked "**C201A**" goes on to state that, the Fund Management Division is authorized to maintain two separate Portfolios of Investments – namely, a *"trading portfolio"* and an *"investment portfolio"* for each type of Securities.

**Section II of the Guidelines marked "C201A", is titled "Guidelines for Investment in Treasury Bonds and Bills"**. Item 1 of this Section states that this Section *"covers the guidelines to be adhered to in relation to buying and selling of Treasury Bonds, Treasury Bills for investment and trading portfolios."*

Thereafter, **Item 2 of Section II sets out the "Method of Investment" in Treasury Bonds and Treasury Bills** and states: *"EPF is permitted to invest in Treasury Bonds and Treasury Bills either through primary auctions or direct placements conducted by the Public Debt Department (PDD) of the Central Bank or through purchases in the secondary market."*

*The Middle Office, at the time of seeking the approval for the purchase of Treasury Bonds and Bills shall specify whether those Treasury Bonds and Bills are to be purchased for the investment portfolio or trading portfolio and execute the transaction accordingly."*

**Item 4 of Section II goes on to deal with the "Investment Portfolio"** of Treasury Bonds and Treasury Bills.

Item 4.1 of Section II explains that Treasury Bonds and Treasury Bills purchased for Investment Portfolio *"shall be bought with the intention of earning a regular interest income by holding until their maturity."*

Item 4.1 also sets out the “Investment Approval Process” which has to be followed when the EPF Department of the CBSL purchases Treasury Bonds and Treasury Bills for the “Investment Portfolio”.

In such cases, Items 4.1.1 and 4.1.2 require that, the Middle Office should determine the Yield Rates at which the EPF should purchase such Treasury Bonds and Treasury Bills and evaluate the offers for sale of Treasury Bonds and Treasury Bills made by the PDD or Primary Dealers and submit a Report to the Superintendent of the EPF Department recommending suitable investments in Treasury Bonds and Treasury Bills for the “Investment Portfolio”.

Item 4.1.3 then deals with purchases of Treasury Bonds and Treasury Bills for the “Investment Portfolio” in the Primary Market [at Auctions or by way of Direct Placements] and specifies that, in such cases, the Front Office, in consultation with the Middle Office, should make recommendations, by way of a Report or a Presentation, “*to the Investment Committee (IC) for ratification at the forthcoming IC meeting*”.

Thus, Item 4.1.3 contemplates that, when the EPF Department of the CBSL purchases Treasury Bonds and Treasury Bills for the “Investment Portfolio” from the PDD in the Primary Market [at Auctions or by way of Direct Placements], the decisions to purchase such Treasury Bonds and Treasury Bills are taken by the EPF Department of the CBSL and are, subsequently, presented to the Investment Committee for ratification.

Next, Item 4.1.4 deals with the *purchases* of Treasury Bonds and Treasury Bills for the “Investment Portfolio” in the Secondary Market and specifies that, “*The Front Office in consultation with the Middle Office recommends to the IC, the yield and the amount of government securities to be purchased from the secondary market. The Middle Office shall also recommend to S/EPF the yield and the amount of the Treasury Bonds/Bills to be sold in the secondary market when return enhancement opportunity arises due to fluctuations in the yield curve or when there is a request from the Back Office of FMD regarding an urgent liquidity need.*”.

Thus, Item 4.1.4 contemplates that, when the EPF Department of the CBSL purchases, in the Secondary Primary Market, from Primary Dealers, Treasury Bonds and Treasury Bills which are to form part of the “Investment Portfolio” of the EPF, the EPF Department of the CBSL is required to first recommend to the Investment Committee, the amount of Treasury Bonds and Treasury Bills to be purchased in the Secondary Market and the Yield Rates at which such purchases are to be made.

Thereafter, Item 4.1.4 contemplates that, when the EPF Department of the CBSL *sells*, in the Secondary Primary Market, to Primary Dealers, Treasury Bonds and Treasury Bills which are in the “Investment Portfolio” of the EPF, the Middle Office is required to first recommend to the Superintendent of the EPF, the amount of Treasury Bonds

and Treasury Bills to be sold in the Secondary Market and the Yield Rates at which such sales are to be made.

**Item 4.3 is titled “Delegation of Authority to Invest in the Primary Market”** and states, *“Subject to the ratification by IC, authority for execution of the transaction relating to Treasury Bonds and Bills has been delegated to the S/EPF and officers in FMD subject to the limits given below.*

- 4.3.1. *S/EPF- no limit*
- 4.3.2. *Additional Superintendent in charge of FMD - up to Rs. 20 bn.*
- 4.3.3. *Deputy Superintendent in charge of FMD - up to Rs. 10 bn.*
- 4.3.4. *Head of FMD - up to Rs. 5 bn.”.*

Thus, it is clear that, Item 4.3 does not confer any authority on the Head of the Front Office to authorise any purchase, from the Primary Market, of Treasury Bonds and Treasury Bills for the “Investment Portfolio”. It is evident that, in terms of Item 4.4, the Head of the Front Office was required to first obtain the authority of the Deputy Superintendent [since the position of the Head of the Fund Management Division was vacant] before purchasing Treasury Bonds in the Primary Market.

**Item 4.4 is titled “Delegation of Authority to Purchase from the Secondary Market”**, states, *“Subject to the ratification by IC, authority for execution of the transactions has been delegated to the S/EPF and officers of FMD subject to the limits given below.*

- 4.4.1 *Assistant Governor in charge of EPF - no limit*
- 4.4.2 *S/EPF - up to 10 bn.*
- 4.4.3 *Additional Superintendent in charge of FMD - up to Rs. 5 bn.*
- 4.4.4. *Deputy Superintendent in charge of FMD - up to Rs. 3 bn.*
- 4.4.5. *Head of FMD - up to Rs. 2 bn.”.*

Thus, it is clear that, Item 4.4 does not confer any authority on the Head of the Front Office to authorise any purchase of Treasury Bonds and Treasury Bills in the Secondary Market for the purpose of the “Investment Portfolio”. It is evident that, in terms of Item 4.4, the Head of the Front Office was required to first obtain the authority of the Deputy Superintendent [since the position of the Head of the Fund Management Division was vacant] before entering into such a transaction.

Item 4.5 is titled “Premature Selling of Treasury Bonds and Bills” and states that, *“Generally, the Bonds/Bills are purchased with the intention of holding until maturity. However, with the approval of IC, Treasury Bonds/Bills may be sold prior to their maturity in order to manage the risk by changing the maturity structure of the portfolio,*



to enhance the return that may rise due to fluctuations in the yields or to meet an urgent liquidity requirement.”. This applies to Treasury Bonds in the “Investment Portfolio” of the EPF.

Item 4.6 is titled “Transfer of Securities from/to Investment Portfolio to/from Trading Portfolio” and states that, “*The transfer of Treasury Bonds and Bills from/to investment portfolio to/from trading portfolio shall be carried out with the approval of IC. The Middle Office shall make a recommendation to IC when the Front Office requests such transfers. The transfer shall be carried out at the prevailing market price.*”.

Thereafter, **Item 5 of Section II governs the “Trading Portfolio”** of Treasury Bonds and Treasury Bills.

**Item 5.1 is titled, “Holding Period”** and states that, “*Treasury Bonds and Bills are purchased for the trading portfolio with the intention of earning profits from short term changes in market prices with a short holding period (normally less than 1-year period).*”.

**Item 5.2 is titled “Approved Securities List”** and states that, “*The Front Office shall purchase Treasury Bonds for trading portfolio when there is an opportunity to sell the same securities at a profit. Hence, the Middle Office shall be responsible for overseeing the trading portfolio.*”.

**Item 5.3 is titled “Size of the Portfolio”** and specifies that, “*The maximum allocation for the trading portfolio shall be 10% of the total Treasury Bond portfolio valued on the basis of the total cost of the portfolio. The total value of the existing trading portfolio shall be informed to IC at the beginning of each quarter. The size of the portfolio may be changed with the prior approval by IC.*”.

**Item 5.4 is titled “Delegation of Authority to Execute Trades”**, states that “*Subject to the ratification by the next IC meeting, authority for execution of the transaction has been delegated to the S/EPF and FMD subject to the daily limits as given in the subsequent paragraph.*

5.4.1            *S/EPF - up to Rs. 10 bn. per day*

5.4.2            *Additional Superintendent in charge of FMD - up to Rs. 5 bn. per day*

5.4.3            *Deputy Superintendent in charge of FMD - up to Rs. 3 bn. per day*

5.4.4            *Staff Officer attached to Front Office - up to Rs. 500 mn. Per day.*”.

Thus, it is clear that, Item 5.4 authorises the Head of the Front Office to authorise transactions in the Secondary Market in respect of Treasury Bonds and Treasury Bills from or for the “Trading Portfolio”, only up to a total value of Rs.500 million on any one day.

Item 5.5 is titled, "Transfer of Treasury Bonds/ Bills from the Trading Portfolio to the Investment Portfolio" states that, "*The Front Office may make a formal request to IC for transferring of Bonds and Bills from trading portfolio to the investment portfolio highlighting the reasons for such transfers. IC may approve such transfer based on the information presented by both the Front Office and the Middle Office. The transfer should be carried out at the prevailing market prices.*".

An Attachment to the document marked "**C201**" shows that, the Investment Committee of the EPF consisted of the Deputy Governor and the Assistant Governor overseeing the EP and the Superintendent, Additional Superintendents and Deputy Superintendents of the EPF. The Heads of the Front Office, Middle Office and Back Office of the Fund Management Division of the EPF Department also participated at these meetings.

We will now briefly refer to some relevant facts and circumstances which emerge from the evidence placed before us.

Firstly, as set out in the documents compendiously marked "**C205**", Mr. Jayalath, who functioned as the Superintendent of the EPF Department from 09<sup>th</sup> February 2015 to 15<sup>th</sup> April 2016, had sent a Memo dated 16<sup>th</sup> November 2015 to the Director of the Facilities Management Department of the CBSL stating that, "*As decided by the CBSL Management it is required to provide Voice Recording Facility*" to be installed in the Front Office of the Fund Management Division of the EPF Department of the CBSL. The Director of the Facilities Management Department of the CBSL had obtained a Quotation from a Supplier to install a Voice Logger at a cost of Rs. 993,450/- and forwarded the Quotation to Mr. Jayalath on 08<sup>th</sup> January 2016. However, since the Tender Board had directed that, 3 Quotations be obtained, Mr. Jayalath had requested the Director of the Facilities Management Department to obtain two more Quotations. For various reasons, a Voice Logger had not been installed in the Front Office.

This evidence shows that, by the month of November 2015, "*the CBSL Management*" had identified that it was necessary to install a Voice Logger to record and, thereby, be able to properly monitor transactions entered into by the Front Office of the EPF.

It hardly needs to be said here that, a Voice Logger is a basic item of equipment which is to be found in almost any "Dealing Room" where Dealers enter into transactions in Foreign Exchange, Securities and Commodities, using telephonic communications. In fact, we find it very surprising that, the EPF did not have a Voice Logger installed in the Front Office long prior to 2015.

This omission amounts to negligence, at the very least, on the part of the EPF Department of the CBSL and the Management of the CBSL prior to 2015 and up to November 2015 when the need for a Voice Logger" seems to have been, very belatedly, first realised.

Further, the unduly long delay in purchasing and installing a Voice Logger at a cost of less than Rs. 1 million, even *after* the EPF Department of the CBSL and the Management of the CBSL had woken up to the fact that a Voice Logger was essential, seems to be inexplicable and negligent, at the very least. It could be reasonably assumed that, this inordinate delay suggests a reluctance, on the part of the EPF Department of the CBSL, to install a Voice Logger.

Secondly, the evidence shows that, in or about the month of February 2016, Mr. C.P.R. Perera, who is an Appointed Member of the Monetary Board, had raised concerns with regard to allegations made by various persons, that some members of the Staff of the EPF Department of the CBSL were acting in collusion with a few Primary Dealers when trading on the Secondary Market in Treasury Bonds. Mr. Mahendran had instructed Mr. Jayalath to examine whether these allegations had any substance and to submit a Report.

Mr. Jayalath had, with the assistance of his Staff in the EPF Department of the CBSL, conducted an examination and submitted a Report to Mr. Mahendran sometime in February 2016. This undated Report is included in the Documents which have been compendiously marked “**C206**”.

This Report is titled, “Preliminary Investigation Report on Treasury Bond Dealing Practices at EPF” and opens with the statement that, “*A preliminary investigation was carried out on the secondary market dealings practices of the EPF on Government securities (Treasury Bonds) in the period covering November 01 2015 to February 8 2016, with a view of identifying any abnormal or misuse of the practices by the Dealers.*”.

The Report then goes on to, *inter alia*, state that, “*Accordingly dispersions in yields of the transactions of EPF do not provide sufficient indications on intentional transactions (purchases) at yields lower than the market yields*” and that, “*changes in purchases prices were well within the yield curve changes, indicating that the deals of EPF were within the yields prevailed in the market.*”.

The Report concludes that, “*In view of the foregoing it is evident that the reported types of market movements occurred during the period with respect to the security under reference. Dealings by the EPF seem responsible for market yield movements in the identified sector. (2041) However, attributing those to willful negligence or actions for personal gain beyond doubt could be quite challenging as similar variations were also observed with regard to certain other sectors not dominated by EPF. Similarly, actions of the EPF dealer seem not supporting well on unquestionable behavior as the economic environment prevailed in the reference period cannot be said to supported strongly on the possibility of significant yield decline in the future.*”.

In or around the time this Report was handed to Mr. Mahendran, the following Article had appeared in the Sunday Times of 06<sup>th</sup> March 2016:

*“ ‘Suspicion’ over recent Treasury bond purchases*

*Deals by two ‘influential’ money market traders who purchased large stocks of Treasury bonds and sold it at a premium a few weeks later to the Employees Provident Fund (EPF) are raising many questions, dealers said.*

*‘We have no proof or evidence but the process appeared to be very suspicious,’ one dealer said, adding that the deals have been over the past few months.*

*Dealers said that the two traders unusually bid at higher rate for large blocks. A few weeks later these institutions sold the bonds to EPF at a profit while the state agency, which is eligible to buy in the primary market on its own, stands to lose on the deal. ‘Why didn’t the EPF buy in the primary market?’ asked one dealer. The last crisis to hit the market was in February 2015 when questions were raised over the CB’s 10-billion rupee bond sale which was sold at higher than normal rates.”.*

Following the publication of this article, a further Report had been prepared. This Report is also undated and is included in the Documents which have been compendiously marked **“C206”**.

This Report concludes:

*“4.1 The EPF engages in transactions involving the Treasury Bonds in both the primary and secondary markets to realize trading profits as well as to generate sufficient long term returns for its members. As such, the EPF may consider several factors in its trading decisions pertaining to government securities. The allegation that the EPF purchased bonds in the secondary market at a premium without purchasing the same bonds at the primary auction is without any reasonable basis given the recent trading history of the Fund.*

*4.2 Further, the allegation that certain dealers ‘unusually bid at higher rates for large blocks’ seems inconsistent with the patterns observed in the primary auctions as most bids at higher rates were rejected by the PDD in the recent past.”.*

The evidence before us is that, Mr. Jayalath also submitted this Report to Mr. Mahendran and that, Mr. Mahendran does not appear to have taken any action on the two Reports until he ceased to be the Governor of the CBSL on 30<sup>th</sup> June 2016.

Following a meeting of the Monetary Board held on 14<sup>th</sup> October 2016, the Monetary Board had instructed Mr. Jayalath to submit copies of the two Reports to the Monetary Board. Mr. Jayalath had done so on 28<sup>th</sup> October 2016.

The Monetary Board had its next meeting on 31<sup>st</sup> October 2016. At that meeting, Monetary Board directed, as set out in the document marked **“C206”**, that, *“a comprehensive examination should be carried out on the Employees’ Provident Fund covering its secondary market transactions of Treasury Bonds, its participation in the*

*primary auctions and bidding patterns, etc. and that it should be also incorporated in the terms of Reference of the external inquiring team.”.*

We are aware, that in pursuance of this Directive, a team of officers of the CBSL conducted an examination of the transactions entered into by the EPF and prepared a Report dated 17<sup>th</sup> March 2017. This Report had been submitted to the Monetary Board on 23<sup>rd</sup> March 2017. It has been stated to us that, the Monetary Board has decided to take appropriate action with regard to the matters set out in the Report.

On 28<sup>th</sup> April 2017, the Governor of the CBSL has advised us that, the CBSL considers this Report *“as strictly confidential on the basis that several regulatory actions are proposed to be taken based on its findings, including, where necessary, taking legal action in courts of law.*

*Some parties who are identified in the said report appear to be present or represented either directly or indirectly before the Col, hence if the report is made use of in the proceedings of the Col and is made available to the parties who have expressed an interest in the matters before the Col, it would seriously undermine and hamper the intended regulatory actions to be taken by the Monetary Board.”*

The Commissioners were provided with copies of the Report for our *“personal perusal”*. For the reasons stated by the Governor of the CBSL, the Commission of Inquiry did not require the production of this Report in evidence. Therefore, we cannot have recourse to its contents for the purposes of our Report.

Thirdly, the evidence establishes that, the EPF ceased dealing in Treasury Bonds in the Secondary Market with effect from 12<sup>th</sup> May 2016 onwards,

Fourthly, the evidence shows that: the EPF had substantial sums which were available for investment on many of the days when the PDD held Auctions of Treasury Bonds during the period of our Mandate; at several of these Auctions, the EPF had not used these available funds to place Bids at Prices which were accepted by the PDD at these Auctions; however, on several occasions, soon after such Auctions, the EPF had purchased, in the Secondary Market, from Primary Dealers, the same Treasury Bonds that were offered at that Auction, but at higher Prices than the Weighted Average Yield Rates at those Auctions. This evidence will be referred to in subsequent Chapters of this Report.

Fifthly, we have before us, the evidence of the Chief Dealer of Perpetual Treasuries Ltd who testified, on oath, that Perpetual Treasuries Ltd frequently dealt with the EPF in Treasury Bonds on the Secondary Market and that, Perpetual Treasuries Ltd would “switch” Treasury Bonds to the EPF using another Primary Dealer as an Intermediary. This evidence is supported by Recordings of some Telephone Conversations between officers of Perpetual Treasuries Ltd and the Head of the Front Office of the EPF Department of the CBSL.

This witness also testified that, from 2014 onwards, the Perpetual Treasuries Ltd paid monetary inducements to the incumbent Head of the Front Office of the EPF.

Further, we have before us, evidence which suggests that, there were extensive telephonic contact between Mr. Arjuna Aloysius of Perpetual Treasuries Ltd and the Head of the Front Office of the EPF Department of the CBSL during the period of our Mandate.

Sixthly, the evidence also establishes that, in the month of June 2015, Mr. Mahendran had requested the EPF to submit to him, on each day, a list of all Transactions entered into by the EPF on that day. These Daily Reports for the period from 01<sup>st</sup> June 2015 up to 04<sup>th</sup> November 2016 were marked “**C204A**” and “**C204B**”.

Before concluding this Chapter, we should, as stated at the commencement of this Chapter, describe what the CBSL means when it uses the term “Captive Sources”.

It is established by the evidence that, the CBSL uses the term “Captive Source” to refer to institutions which are controlled by the Government. As stated earlier, in 2008, the PDD regarded the EPF, Bank of Ceylon, People’s Bank and the National Savings Bank, as being “Captive Sources”. Since then, the CBSL has used the term “Captive Sources” to refer to many more institutions which are controlled by the Government, including the Employees’ Trust Fund, the National Savings Bank and Sri Lanka Insurance Corporation and other similar institutions.

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## CHAPTER 14

### **THE PROFITS MADE BY PERPETUAL TREASURIES LIMITED AND OTHER FACTS WHICH SINGLE OUT PERPETUAL TREASURIES LTD**

Perpetual Treasuries Ltd obtained a License to operate as a Primary Dealer on 01<sup>st</sup> October 2013.

Perpetual Treasuries Ltd commenced Business in early 2014 and during the remaining few months of the Financial Year ended 31<sup>st</sup> March 2014, Perpetual Treasuries Ltd made a Net Loss of Rs. 3.7 Million.

During the next Financial Year from 01<sup>st</sup> April 2014 to 31<sup>st</sup> March 2015, Perpetual Treasuries Ltd made a Net Profit of Rs. 959.5 million.

In the next Financial Year from 01<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016, which falls within the period of our Mandate, the Net Profit made by Perpetual Treasuries Ltd rose remarkably sharply, to Rs. 5.124 Billion.



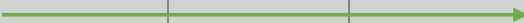


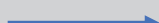

In the following Financial Year commencing from 01<sup>st</sup> April 2016 and ending on 31<sup>st</sup> March 2017, the Net Profit made by Perpetual Treasuries Ltd increased further to Rs. 6.365 Billion. Although this Financial Year is chronologically outside the period of our Mandate, the Net Profit made by Perpetual Treasuries Ltd during that period is relevant to us and can be properly considered as falling within the ambit of our Mandate or the reason that, the evidence shows that a major part of this Profit was realised by the disposal of Treasury Bonds acquired by Perpetual Treasuries Ltd during the period of our Mandate.





The aforesaid data is reflected in the Audited Balance Sheets and Draft Accounts submitted by Perpetual Treasuries as part of the documents in the series marked “**C239**” and also the data which has been made available to us by the CBSL.

These Profits made by Perpetual Treasuries Ltd are very much more than the Profits made by any other “stand-alone” Primary Dealer and are, in fact, also very much more than the Profits made by the Primary Dealers who are arms of Licensed Commercial Banks and other Banks such as the Bank of Ceylon, People’s Bank, National Savings Bank, Commercial Bank PLC, Sampath Bank PLC, Seylan Bank PLC, Pan Asia Banking Corporation PLC, Union Bank of Colombo PLC and HSBC. This stark disparity is highlighted by the documents marked “**C160**”, “**C161**” and “**C162**” which list the Profits made by Primary Dealers and demonstrate the huge difference between the very high Profits made by Perpetual Treasuries Ltd and the Profits made by other Primary Dealers including Primary Dealers who are arms of Licensed Commercial Banks which were.

For purposes of further illustrating how much higher the Profits made by Perpetual Treasuries Ltd are when compared to the Profits made by other Primary Dealers, we set out below, a Table containing some relevant highlights of the Statements of Income and Expenditure filed by seven other Primary Dealers with the Registrar of Companies. These details were extracted from the documents were produced by the Registrar of Companies, in the “RGC” Series.

PRIMARY DEALER	NET TRADING/ INTEREST INCOME	CAPITAL GAIN/ (LOSS)	NET PROFIT/ (LOSS) For the year ended 31.03 2013  [ALL AMOUNTS IN RUPEES]	NET PROFIT/ (LOSS) For the year ended 31.03.2014  [ALL AMOUNTS IN RUPEES]	NET PROFIT/ (LOSS) For the year ended 31.03.2015  [ALL AMOUNTS IN RUPEES]	NET PROFIT/ (LOSS) For the year ended 31.03.2016  [ALL AMOUNTS IN RUPEES]
ENTRUST SECURITIES PLC	182,381,338 (2014)	170,845,673 (2014)	→	274,503,679		
	269,045,466 (2015)	205,085,100 (2015)	→		220,916,273	
NATWEALTH SECURITIES LIMITED	544,928,562 (2014)	63,802,856 (2014)	→	513,512,848		
	122,458,296 (2015)	(248,232,644) (2015)	→		(200,080,851)	

<b>FIRST CAPITAL TREASURIES PLC</b>	530,993,000 <b>(2013)</b>	48,354,000 <b>(2013)</b>	553,811,000			
	509,962,000 <b>(2014)</b>	119,936,000 <b>(2014)</b>		517,942,000		
	1,166,121 <b>(2015)</b>	(222,907) <b>(2015)</b>			729,705	
	225,363 <b>(2016)</b>	(55,558) <b>(2016)</b>				11,213
<b>WEALTH TRUST SECURITIES LIMITED</b>	184,057,463 <b>(2015)</b>	637,383,980 <b>(2015)</b>			359,268,638	
	320,485,460 <b>(2016)</b>	894,842,375 <b>(2016)</b>				522,288,588
<b>CAPITAL ALLIANCE LIMITED</b>	113,025,512 <b>(2013)</b>	285,844,918 <b>(2013)</b>	283,025,665			
	149,772,027 <b>(2014)</b>	296,548,306 <b>(2014)</b>		331,864,701		
	150,373,122 <b>(2015)</b>	591,110,636 <b>(2015)</b>			532,290,424	

	183,057,365 <b>(2016)</b>	(53,606,194) <b>(2016)</b>				57,333,690
<b>NSB FUND MANAGEMENT COMPANY LIMITED</b>	315,688,500 <b>(2014)</b>	65,518,344 <b>(2014)</b>		201,969,857		
	322,004,783 <b>(2015)</b>	3,569,538 <b>(2015)</b>			174,318,407	
<b>ACUITY SECURITIES LIMITED</b>	131,598,043 <b>(2014)</b>	126,711,518 <b>(2014)</b>		116,612,234		
	99,794,274 <b>(2015)</b>	(45,267,976) <b>(2015)</b>			(15,740,300)	
<b>PERPETUAL TREASURIES LIMITED</b>	106,075,956 <b>(2015)</b>	767,154,108 <b>(2015)</b>			959,550,807	
	353,645,131 <b>(2016)</b>	5,230,929,386 <b>(2016)</b>				5,124,196,321

This striking feature - *ie*: the fact that, Perpetual Treasuries Ltd has, within a very short space of time and on an Issued Capital of only Rs. 300 Million, made such remarkable Profits in a Market where no other Primary Dealer comes even close to that level of success - leads us to consider that, it is necessary, to examine how and why Perpetual Treasuries Ltd was able to make these remarkable Profits.

In order to do so, we must examine, *inter alia*, the corporate background of Perpetual Treasuries Ltd, the manner in which Perpetual Treasuries Ltd obtained a License to operate as a Primary Dealer, the operations of Perpetual Treasuries Ltd prior to the period of our Mandate and the operations of Perpetual Treasuries Ltd in the Primary Market and Secondary Market during the period of our Mandate and also some relevant Transactions entered into by Perpetual Treasuries Ltd in the Secondary Market on Treasury Bonds acquired during the period of our Mandate.

When, in pursuance of this endeavour, we surveyed the evidence placed before us, we saw a series of facts and circumstances which single out Perpetual Treasuries Ltd as a Primary Dealer, that merits our special attention.

These facts and circumstances include:

- 1] The evidence that, Perpetual Treasuries Ltd ended up with approximately 50% - *ie*: Rs. 5 Billion of the Treasury Bonds issued at the Auction held on 27<sup>th</sup> February 2015;
- 2] The evidence that, at this Auction, Perpetual Treasuries Ltd placed Bids in its own name for Rs. 2 Billion and placed Bids for Rs. 13 Billion through Bank of Ceylon;
- 3] The evidence that, Perpetual Treasuries Ltd made significant Profits from the eventual disposal of the Treasury Bonds acquired at this Auction to EPF and other Government Institutions, sometimes using the technique of “switching” the transactions through other Primary Dealers;
- 4] The evidence that, Perpetual Treasuries Ltd acquired a large value of Treasury Bonds at the Treasury Bond Auctions held in the months of September and October 2015 and, thereafter, in the month of November 2015, made significant Profits from the disposal of the Treasury Bonds acquired at these Auctions to EPF and other Government Institutions, sometimes using the technique of “switching” the Transactions through other Primary Dealers;
- 5] The evidence that, Perpetual Treasuries Ltd acquired a large value of Treasury Bonds at Treasury Bond Auctions held in the month February 2016 and, soon thereafter, made significant Profits from the disposal of the Treasury Bonds acquired at these Auctions to EPF and other Government Institutions, sometimes using the technique of “switching” the Transactions through other Primary Dealers;
- 6] The evidence that, Perpetual Treasuries Ltd had “inside information” [“price sensitive information”] regarding the Treasury Bond Auctions held on 29<sup>th</sup> March 2016.

- 7] The evidence that, Perpetual Treasuries Ltd obtained a very large proportion of the Treasury Bonds issued at the Auctions held on 29<sup>th</sup> March 2016, using such “inside information” [“price sensitive information”];
- 8] The evidence that, in the months of May 2016 and June 2016 and thereafter, Perpetual Treasuries Ltd made significant Profits from the eventual disposal of the Treasury Bonds acquired at these Auctions to EPF and other Government Institutions, sometimes using the technique of “switching” the Transactions through other Primary Dealers;
- 9] The evidence that, on 01<sup>st</sup> April 2016, Perpetual Treasuries Ltd ran out of funds to pay for some of the Treasury Bonds obtained at the aforesaid Auctions;
- 10] The evidence which suggests that, Perpetual Treasuries Ltd maintained close relationships with incumbent Head of the Front Office of the EPF Department of Sri Lanka;
- 11] The evidence which suggests that, Perpetual Treasuries Ltd paid inducements to the incumbent Heads of the Front Office of the EPF Department of Sri Lanka Dealers at EPF and also some other Dealers who dealt on behalf of other Primary Dealers;
- 12] The evidence which suggests that, both Mr. Arjun Aloysius of Perpetual Treasuries Ltd and Mr. Kasun Palisena, the Chief Executive Officer of Perpetual Treasuries Ltd had extensive telephonic contact with the incumbent Head of the Front Office of the EPF Department of Sri Lanka Dealers at EPF and also several persons who dealt on behalf of other Primary Dealers;
- 13] The evidence that, Perpetual Treasuries Ltd deleted recordings of several Telephone Conversations relating to Transactions which Perpetual Treasuries Ltd entered into in the Secondary Market and tampered with the Voice Recordings, before submitting them to the Commission of Inquiry;
- 14] The evidence that, Perpetual Treasuries Ltd crashed its computer deliberately;
- 15] The evidence that, Mr. Arjun Aloysius continued to play an active role in the operations of Perpetual Treasuries Ltd despite having resigned from the post the post of Director of Perpetual Treasuries Ltd in January 2015 ostensibly in order to prevent a conflict of interest arising from the fact that, Mr. Arjuna Mahendran, who is his father-in-law, was to be appointed Governor of the CBSL.

Further, we note that, in the course of the Proceedings of this Commission of Inquiry, we received several representations made by members of the public that the Commission of Inquiry should examine the operations of Perpetual Treasuries Ltd. We have not received similar representations by members of the public that this Commission of Inquiry should examine the operations of other Primary Dealers. We



consider that, this fact too suggests that, we should examine the operations of Perpetual Treasuries Ltd.

We also note that there is no evidence before us of facts and circumstance which suggests that, the operations of other Primary Dealers, during the period of our Mandate, should be examined by the Commission of Inquiry, subject to an extent of evidence with regard to Pan Asia Banking Corporation PLC. This reason too, lead us to consider that, this Commission of Inquiry is required to examine Perpetual Treasuries Ltd's operations during the period of our Mandate.

Due to the limitations of time and the limited extent of evidence concerning Pan Asia Banking Corporation PLC, we consider it more appropriate to recommend that, the CBSL carries out such investigations into the operations of Pan Asia Banking Corporation PLC, as the CBSL considers suitable. We intend to make that recommendation.

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## CHAPTER 15

### **PERPETUAL TREASURIES LIMITED**

In this Chapter we will consider the incorporation, ownership and control of Perpetual Treasuries Ltd, the Application Perpetual Treasuries Ltd submitted to obtain a Primary Dealer's License and the operations of Perpetual Treasuries Ltd prior to the period our Mandate commenced.

#### **Section 15.1 - Incorporation, Ownership and Control of Perpetual Treasuries Ltd**

Perpetual Treasuries (Pvt) Ltd was incorporated on the 01<sup>st</sup> October 2012. At the time of incorporation, all the Shares in Perpetual Treasuries Ltd were owned by the Company named Perpetual Asset Management (Pvt) Ltd.

Perpetual Treasuries Ltd is part of a Group of several Companies, most of which bear the word "Perpetual" in their name. Therefore, this Group of Companies may be referred to as "the Perpetual Group of Companies".

The Companies which constitute the "the Perpetual Group of Companies" are all, ultimately, owned and controlled by Mr. Geoffrey Aloysius and Mr. Arjuna Aloysius, who are father and son.

We will briefly examine the ownership and control of these Companies since the evidence establishes that Perpetual Treasuries Ltd dealt frequently with Companies within the Group and that, Perpetual Treasuries Ltd may have transferred funds to Companies within the Group. In order to assess the significance of those transactions and transfers, we need to learn the ownership and control of the Group Companies with whom Perpetual Treasuries Ltd entered into transactions and may have transferred funds to.

The first Company to be incorporated in this Group was Perpetual Asset Management (Pvt) Ltd, which was incorporated on 27<sup>th</sup> July 2009, bearing Company No. PV 68584. The Company was engaged, primarily in Investment and Trading in Shares in Companies. At the time of incorporation, Perpetual Asset Management (Pvt) Ltd was 100% owned by Mr. Geoffrey Aloysius and Mr. Arjun Aloysius. The Company was also controlled by the same father and son duo, who were the only Directors of Perpetual Asset Management (Pvt) Ltd.

Thereafter, Perpetual Capital (Pvt) Ltd was incorporated on 10<sup>th</sup> June 2010 under Company No. PV72651. At the time of incorporation, Perpetual Capital (Pvt) Ltd was also 100% owned by Mr. Geoffrey Aloysius and Mr. Arjun Aloysius. The Company was

also controlled by the same two persons, who were the only Directors of Perpetual Capital (Pvt) Ltd.

On or about 23<sup>rd</sup> of December 2013, Ms. Siromi Wickramasinghe, who is the sister of Mr. Nivard Cabraal, who was the Governor of the CBSL in 2013-2014, was appointed a Director of Perpetual Capital (Pvt) Ltd. From that date onwards, the Directors of Perpetual Capital (Pvt) Ltd were Mr. Geoffrey Aloysius, Mr. Arjun Aloysius and Ms. Siromi Wickramasinghe.

On 08<sup>th</sup> August 2014, Perpetual Asset Management Ltd was amalgamated with Perpetual Capital (Pvt) Ltd under the Provisions of Section 244 (1) (a) of the Companies Act No.7 of 2007.

Thereafter, on 31<sup>st</sup> December 2014, Perpetual Capital (Pvt) Ltd changed its name to Perpetual Capital Holdings (Pvt) Ltd under the Provisions of Section 8 of the Companies Act.

The Directors of Perpetual Capital Holdings (Pvt) Ltd continued to be Mr. Geoffrey Aloysius, Mr. Arjun Aloysius and Ms. Siromi Wickramasinghe.

Ms. Siromi Wickramasinghe resigned from the office of Director of Perpetual Capital Holdings (Pvt) Ltd on 09<sup>th</sup> March 2015. Thereafter, the only two Directors of Perpetual Capital Holdings (Pvt) Ltd were Mr. Geoffrey Aloysius and Mr. Arjun Aloysius.

It is relevant to mention here that, Ms. Siromi Wickramasinghe was a Director of Perpetual Asset Management Ltd – which, as set out above, is the sole Owner and immediate Holding Company of Perpetual Treasuries Ltd - at the time the Monetary Board chaired by her brother, Mr. Nivard Cabraal, decided to issue a Primary Dealer's License to Perpetual Treasuries Ltd. Ms. Wickramasinghe continued to hold the office of a Director while Perpetual Treasuries Ltd operated as a Primary Dealer under the supervision of the CBSL in 2014, during the period when Mr. Nivard Cabral was the Governor of the CBSL.

At some point in 2016, Mr. Geoffrey Aloysius and Mr. Arjun Aloysius have transferred their Shares in Perpetual Capital Holdings (Pvt) Ltd to a *newly* incorporated Company named Perpetual Capital (Pvt) Ltd, which bears Company No. 103925.

This "*new*" Company also named Perpetual Capital (Pvt) Ltd, was incorporated on 18<sup>th</sup> February 2015 under Company No. PV103925. At the time of incorporation, this Company was 100% owned by Mr. Geoffrey Aloysius and Mr. Arjun Aloysius, each of whom hold 50% of the Shares in the Company.

The initial Directors of the *newly* incorporated Company named Perpetual Capital (Pvt) Ltd were Mr. Geoffrey Aloysius, Mr. Arjun Aloysius and Ms. Siromi Wickramasinghe. Ms. Wickramasinghe resigned from the office of Director on 04<sup>th</sup> December 2015.

Since then, Mr. Geoffrey Aloysius and Mr. Arjun Aloysius have been the only two Directors of the “new” Company named Perpetual Capital (Pvt) Ltd, which was incorporated under Company No. PV103925.

On or about 07<sup>th</sup> March 2017, further Shares in the “new” Company named Perpetual Capital (Pvt) Ltd [which was incorporated under Company No. PV103925] were issued to Mr. Geoffrey Aloysius and Mr. Arjun Aloysius, in equal proportions.

The other Companies in “the Perpetual Group” are:

- (1) Perpetual One (Pvt) Ltd, which was incorporated on 21<sup>st</sup> February 2012 and later changed its name to Perpetual Beverage (Pvt) Ltd. This Company is 100% owned by Perpetual Capital Holdings (Pvt) Ltd. Mr. Arjun Aloysius is the sole Director;
- (2) Perpetual Logistics (Pvt) Ltd, which was incorporated on 09<sup>th</sup> October 2012 and later changed its name to Perpetual Travel, Retail and Airport Services (Pvt) Ltd. This Company is also 100% owned by Perpetual Capital Holdings (Pvt) Ltd. The Directors are Mr. Geoffrey Aloysius, Mr. Arjun Aloysius, Mr. Pushya Mitra Gunawardena and Mr. Kadadora Gedera Chaminda Sanath Bandara;
- (3) Perpetual Equities (Pvt) Ltd, which was incorporated on 08<sup>th</sup> October 2013. This Company is also 100% owned by Perpetual Capital Holdings (Pvt) Ltd. The Directors are Mr. Geoffrey Aloysius, Mr. Arjun Aloysius, Mr. Hettiyadura Shiran Sanjeeva Fernando and Mr. Kadadora Gedera Chaminda Sanath Bandara;
- (4) Sometime prior to 2014, Perpetual Capital Holdings (Pvt) Ltd [or one of its Associate Companies] acquired the majority of the Shares in W.M. Mendis and Company Ltd. which had been incorporated in 1960. W.M. Mendis and Company Ltd carries on Business as manufacturer, distiller and marketer of Arrack and other types of Liquor.

The documents produced by the Registrar General of Companies in the “**RGC**” Series establish that, when the period of our Mandate commenced, Perpetual Capital (Pvt) Ltd directly owned approximately 96% of the Issued Share Capital of W.M. Mendis and Company Ltd. As at 06<sup>th</sup> August 2015, the Directors of W.M. Mendis and Company Ltd were Mr. Geoffrey Aloysius, Mr. Arjun Aloysius, Mr. Muthurajah Surendran, Mr. Chitha Ranjan Hulugalle and Mr. Cecil Haresh De Soysa. Mr. Geoffrey Aloysius resigned on 30<sup>th</sup> June 2015. From then on and during the entirety of 2016, the Directors of W.M. Mendis and Company Ltd were Mr. Arjun Aloysius, Mr. Muthurajah Surendran, Mr. Chitha Ranjan Hulugalle and Mr. Cecil Haresh De Soysa;

- (5) Sometime prior to 2014, Perpetual Capital Holdings (Pvt) Ltd [or one of its Associate Companies] also acquired the majority of the Shares in the Company named Walt and Row Associates Pvt Ltd, which was incorporated on 02<sup>nd</sup> October 1984 and was an Associate Company of W.M. Mendis and Company Ltd.

All the Shares in Walt and Row Associates Pvt Ltd are now held by Perpetual Beverage (Pvt) Ltd.

The Directors of Walt and Row Associates Pvt Ltd are Mr. Geoffrey Aloysius, Mr. Arjun Aloysius and Mr. Kadadora Gedara Chaminda Sanath Bandara.

With regard to Perpetual Treasuries Ltd [which was named Perpetual Treasuries (Pvt) Ltd at the time it was incorporated on 01<sup>st</sup> October 2012 and changed its name to Perpetual Treasuries Ltd on 15<sup>th</sup> January 2013], all the Shares in Perpetual Treasuries Ltd were owned by Perpetual Asset Management (Pvt) Ltd in 2012, as stated earlier.

Consequent to Perpetual Asset Management (Pvt) Ltd amalgamating with Perpetual Capital (Pvt) Ltd on 08<sup>th</sup> August 2014, all the Shares in Perpetual Treasuries Ltd were held by Perpetual Capital (Pvt) Ltd [which had been incorporated under Company No. PV72651] and which later changed its name to Perpetual Capital Holdings (Pvt) Ltd.

Thus, from on 31<sup>st</sup> December 2014 onwards, Perpetual Treasuries Ltd has been 100% owned by Perpetual Capital Holdings (Pvt) Ltd. [It should be noted here that, we have seen, in the “**RGC**” Series of documents, a copy of Companies Form 15 dated 22<sup>nd</sup> April 2016 which states refers to Perpetual Capital Holdings (Pvt) Ltd having transferred its Shares in Perpetual Treasuries Ltd to a Company named “Perpetual Asset Management (Pvt) Ltd”, which bears Company No. PV 86284, on or about 07<sup>th</sup> January 2016. We have no further information regarding such a transfer. As stated earlier, a Company bearing the same name of “Perpetual Asset Management (Pvt) Ltd” had been incorporated earlier, on 27<sup>th</sup> July 2009, bearing Company No. PV 68584. Therefore, any “*new*” Company bearing the *same* name of “Perpetual Asset Management (Pvt) Ltd” and a Company No. PV 86284 would have had to have been incorporated after 08<sup>th</sup> August 2014, if at all.]

In any event, based on the clear evidence of the ownership structure of all the Companies in the “the Perpetual Group of Companies”, we can reasonably assume that, Mr. Geoffrey Aloysius and Mr. Arjun Aloysius would be the beneficial owners of the aforesaid Company which is said to be *also* named “Perpetual Asset Management (Pvt) Ltd” and bear Company No. PV 86284, to which Perpetual Capital Holdings (Pvt) Ltd may have transferred its Shares in Perpetual Treasuries Ltd to.

As stated earlier, Mr. Geoffrey Aloysius and Mr. Arjun Aloysius owned all the Shares in Perpetual Capital Holdings (Pvt) and later transferred all their Shares in Perpetual

Capital Holdings (Pvt) to the “new” Company named Perpetual Capital (Pvt) Ltd [which was incorporated under Company No. PV103925]., which is 100% owned by Mr. Geoffrey Aloysius and Mr. Arjun Aloysius, each of whom hold 50% of the Shares in that Company.

On the basis of the aforesaid facts, we can reliably conclude that, Mr. Geoffrey Aloysius and Mr. Arjun Aloysius are the sole owners of the ultimate Holding Company of Perpetual Treasuries Ltd and have been, jointly, the sole beneficial owners of Perpetual Treasuries Ltd during the entire period of our Mandate.

Further, through such ownership and the fact that, Mr. Geoffrey Aloysius and Mr. Arjun Aloysius [and Ms. Siromi Wickramasinghe during the period from 13<sup>th</sup> December 2013 to 09<sup>th</sup> March 2015] were the only Directors of both Perpetual Capital Holdings (Pvt) Ltd and the “new” Company named Perpetual Capital (Pvt) Ltd [which was incorporated under Company No. PV103925], Mr. Geoffrey Aloysius and Mr. Arjun Aloysius [and Ms. Siromi Wickramasinghe during the period from 13<sup>th</sup> December 2013 to 09<sup>th</sup> March 2015] had the ultimate control of Perpetual Treasuries Ltd.

Arjun Aloysius had resigned from the post of Director of Perpetual Treasuries Ltd on 16<sup>th</sup> January 2015.

As set out in the Company’s Form 15 submitted by Perpetual Treasuries Ltd to the Registrar General of Companies on 22<sup>nd</sup> April 2015 the Directors of Perpetual Treasuries Ltd were Mr. Geoffrey Aloysius, Mr. Chitha Ranjan Hulugalla, Mr. Muthurajah Surendran and Mr. Ajahn Gardiye Punchihewa.

With regard to the persons who controlled the day to day operations of Perpetual Treasuries Ltd, we have been furnished with some of the Minutes of the Board Meetings of Perpetual Treasuries Ltd during the period from 12<sup>th</sup> March 2014 to 30<sup>th</sup> May 2017. We note that, we have not been furnished with the Minutes of the Board Meetings held in February 2015, March 2015, February 2016 and May 2016.

The Minutes furnished to us establish that, the Board Meetings of Perpetual Treasuries Ltd, were chaired by Mr. Geoffrey Aloysius.

The Minutes also establish that, until Mr. Arjun Aloysius resigned from the office of Director of Perpetual Treasuries Ltd on 16<sup>th</sup> January 2015, he attended all the Board Meeting held till that date. From March 2015 onwards, Mr. Arjun Aloysius did not attend the Board Meetings of Perpetual Treasuries Ltd in the capacity of a Director.

However, we note that, Mr. Arjun Aloysius has, upon invitation, attended the Board Meetings held on 24<sup>th</sup> November 2015, 17<sup>th</sup> December 2015, 27<sup>th</sup> January 2016, 21<sup>st</sup> March 2016 and 27<sup>th</sup> April 2016, which relate to the period of our Mandate and also the Meetings on 26<sup>th</sup> August 2016, 10<sup>th</sup> October 2016 and 29<sup>th</sup> March 2017.



Further Mr. Kasun Palisena who was the Chief Executive Officer of Perpetual Treasuries Ltd during the period of our Mandate, has, upon invitation, attended every Board Meeting, during the period of our Mandate.

We have clear evidence which establishes that, during this period, the affairs and operations of Perpetual Treasuries Ltd were controlled, on a day-to-day basis, by Mr. Kasun Palisena, in consultation with Mr. Arjun Aloysius. There is reliable evidence which establishes that, Mr. Arjun Aloysius was kept advised and was consulted on major decisions taken by Perpetual Treasuries Ltd and that Mr. Arjun Aloysius played an intrinsic part in the decision-making process of Perpetual Treasuries Ltd. This was admitted by Mr. Kasun Palisena, CEO and by Mr. Nuwan Salgado, the Chief Dealer and is, *inter alia*, demonstrated by the telephone conversations between Mr. Kasun Palisena and Mr. Arjun Aloysius on 29<sup>th</sup> March 2016, the interview Mr. Arjun Aloysius had with Mr. Arjuna Mahendran and the Officers of the Domestic Operations Department on 02<sup>nd</sup> April 2016 and the evidence of Mr. Richie Dias of Pan Asia Bank, who testified that Mr. Arjun Aloysius had met with Mr. Nimal Perera to arrange for PABC to “switch” sales of Treasury Bonds from Perpetual Treasuries Ltd to EPF.

Further, there is evidence which shows that, there had been a large number of telephone conversations between Mr. Aloysius and the Head of the Front Office of the EPF Department of the CBSL, between Mr. Aloysius and several Dealers who dealt on behalf of other Primary Dealers and between Mr. Aloysius and an official of the PDD, which suggests that, Mr. Arjun Aloysius was intimately involved with the operations of Perpetual Treasuries Ltd.

There is also evidence before us, which suggests that, Mr. Arjun Aloysius was instrumental in the payment of inducements to persons who functioned as Dealers in the EPF and among other Primary Dealers.

On the aforesaid basis, it is evident to us that, Mr. Arjun Aloysius and Mr. Kasun Palisena were in control of the day-to-day operations and transactions of Perpetual Treasuries Ltd, during the period of our Mandate and can be, properly, considered to be the persons who have primary responsibility for the actions of Perpetual Treasuries Ltd, during that period.

We also are of the view that, Mr. Geoffrey Aloysius has a measure of responsibility for the actions carried out by Perpetual Treasuries Ltd, since he functioned as the Chairman of the Board of Directors of Perpetual Treasuries Ltd during the period of our Mandate and since he was one of the two beneficial owners of Perpetual Treasuries Ltd and the beneficial recipient of the Dividends paid by Perpetual Treasuries Ltd. We also note that, Perpetual Treasuries Ltd paid Mr. Geoffrey Aloysius a substantial “Bonus” in respect of the Financial Year ended 31<sup>st</sup> March 2016. Further, we note that, the Guidelines to the Code of Conduct for Primary Dealers, which was referred to earlier, state that. *“The board of directors and management are fully responsible for the firm’s operations, including the development, implementation and on-going effectiveness of the firm’s compliance, risk management and internal controls*

systems and for the adherence by the directors and the employees to the standards sets.”.

## **Section 15.2 - Perpetual Treasuries Ltd obtains the Primary Dealer’s License**

In October 2012, Perpetual Treasuries Ltd submitted a written Application addressed to the then Superintendent of the PDD, Mr. Dammika Nanayakkara, seeking the issue of a License to operate as a Primary Dealer. The related letters sent by the Perpetual Treasuries Ltd to the Superintendent of Public Debt are dated 17<sup>th</sup> October 2012, 31<sup>st</sup> October 2012 and 09<sup>th</sup> January 2013.

Mr. Arjun Aloysius has signed all these letters on behalf of Perpetual Treasuries Ltd.

As stated in the Annexures to these letters, the Directors of Perpetual Treasuries Ltd as at 17<sup>th</sup> October 2012, were:

1. Mr. Kattar Aloysius
2. Mr. Geoffrey Aloysius
3. Mr. Godfrey Aloysius
4. Mr. Arjun Aloysius
5. Mr. Pushya Gunawardhana (Non-Executive Independent Director)
6. Mr. Chitha Ranjan Hulugalle (Non-Executive Independent Director)

Mr. Arjun Aloysius has been described in the following terms:

*“Mr. Arjun Aloysius is a reputed participant in the Sri Lanka equities market. He holds a BSc. in Finance from the Bond University of Australia and started his career as a senior consultant to the Free Lanka Group. Currently Mr. Aloysius serves as the Deputy Chairman of W.M. Mendis Limited in executive capacity. He is also a Director of HDFC PLC, Director and CEO of Perpetual Asset Management (Pvt) Ltd. In addition to the above, he continues to function as a senior consultant to the Free Lanka Group Investment arm, to which he gives strategic direction.”.*

Mr. Geoffrey Aloysius has been described in the following terms:

*“Mr. Geoffrey J. Aloysius holds a BSc. in Business Administration (USA) and started his career in 1981. He served as Director Projects for Free Lanka Granite & Marble Exports (Pvt) Ltd and as a Director of Maturata Plantations Ltd. Mr. Aloysius currently served as Director Projects for Free Lanka Trading Co. Ltd and Free Lanka Granite (Pvt) Ltd. He also serves on the Boards of Free Lanka Management Co Ltd, Free Lanka Plantations Co. Ltd, Pussellawa Plantations Ltd. and W.M. Mendis & Company Limited. He counts over 30 years of experience of which 13 years have been in the Plantation Sector.”.*

As stated in the Articles of Association of Perpetual Treasuries Ltd, the Objects of Perpetual Treasuries Ltd, are:

- “ 1. *Bidding at primary auctions conducted by the Central Bank of Treasury Bills, Treasury Bonds, and instruments issued by the Government and the Central Bank and purchasing such securities in such primary market;*
2. *Engaging in the secondary market in Treasury Bills, Treasury Bonds, and other Government and Central Bank securities with the Central Bank and others.*
3. *Promoting and developing a secondary market in Treasury Bills, Treasury Bonds, and other Government and Central Bank securities; and.*
4. *Any activities connected or incidental to the activities set out in Paragraph (1) to (3) above.”*

Perpetual Treasuries Ltd stated, in its Application, that the Issued and Fully Paid Up Share Capital of Perpetual Treasuries Ltd then amounted to Rs. 300 Million of which Rs. 200 Million consisted of Shares issued to Perpetual Asset Management (Pvt) Ltd and Rs. 100 Million constituted by “Debt Capital”.

Thereafter by a subsequent letter dated 20<sup>th</sup> February 2013 and the attachments to that letter, Perpetual Treasuries Ltd conceded that it has made a “*misrepresentation*” with regard to the amount of Issued and Fully Paid Up Capital and stated, *inter alia*, that the Issued and Fully Paid Up Share Capital of Perpetual Treasuries Ltd was only Rs. 200 Million, which consisted of Shares held by Perpetual Asset Management (Pvt) Ltd.

Perpetual Treasuries Ltd also stated that Perpetual Asset Management (Pvt) Ltd which then owned 100% of Perpetual Treasuries Ltd, is a Company directly involved in the Public Equity Trading on the Colombo Stock Exchange and is one the “*significant traders*” on the Colombo Stock Exchange.

We note from the Audited Balance Sheet for the Financial Year ended 31<sup>st</sup> March 2012, which was submitted with the aforesaid Application, that, Perpetual Asset Management (Pvt) Ltd, which was then the immediate Holding Company of Perpetual Treasuries Ltd, had made a Net Loss of Rs. 272.3 Million in that Financial Year after having made a profit of Rs. 2.429 Billion in the previous Financial Year.

We also note that, the Assets of Perpetual Asset Management (Pvt) Ltd, as at 31<sup>st</sup> March 2012, amounted to Rs. 2.879 Billion of which Non-Current Assets, by way of: Property, Plant and Equipment which were valued at Rs. 23.7 Million; Short-Term Investments in Quoted Companies which were valued at Rs. 28.855 Million; and Investments in “the Renuka Group” which were valued at Rs. 310.5 Million.

The major portion of the Assets of Perpetual Asset Management (Pvt) Ltd consisted of a sum of Rs. 2.528 billion which were Dues from Related Parties - ie: Perpetual Capital (Pvt) Ltd and Free Lanka Trading Company (Pvt) Ltd.

The Minutes of the Meeting of the Monetary Board held on 09<sup>th</sup> May 2013 and marked “**C55F**” show that, the Monetary Board considered the Board Paper dated 09<sup>th</sup> May 2013 submitted by the PDD, with regard to the Application made by the Perpetual Treasuries Ltd to be appointed a Primary Dealer.

In this Board Paper, the PDD has voiced several concerns including a statement that Perpetual Treasuries Ltd had agreed to increase its Issued Share Capital to Rs. 300 million and also observed that, that “*Perpetual Asset Management (Pvt) Ltd (PAML) is the sole shareholder of Perpetual Treasuries Ltd that expect to subscribe 100 per cent to the capital of Perpetual Treasuries Ltd. Two Directors of PTL are directors of PAML as well. 85.5 per cent of total assets of PAML represents dues from related company, Perpetual Capital (Pvt) Ltd. As many financial groups have used the licensed status of some companies in the group to raise funds for businesses of related companies, PTL having a name similar to that of its related companies, common directors and located in the same premises with the group companies are matters of concern.*”.

On 09<sup>th</sup> May 2013, the Monetary Board considered the concerns of the PDD and granted approval, in principle, to appoint Perpetual Treasuries Ltd as a Primary Dealer, subject to, *inter alia*, Perpetual Treasuries Ltd submitting “*a clearly articulated plan for carry on the business as a Primary Dealer with a clear distinction from other activities of the Group; and submitting “a certification from its auditors confirming that the minimum share capital of Rs. 300 Million is complied with;”*.”.

Thereafter, on 13<sup>th</sup> September 2013, Perpetual Treasuries Ltd submitted a Certificate issued by S. Saverimuttu & Co., Chartered Accountants of P.O. Box 936, 3<sup>rd</sup> Floor, YMBA Building, Colombo 01, which stated:

“ **Confirmation of Share Capital**  
**Perpetual Treasuries Ltd – No. 03487573001-PABC**

*We are the Statutory auditor of above Company and here confirm that the above current account received an amount of Rs. 300,000,000/= as share Capital of the Company.*

*This letter of confirmation is issued after verifying the Board Resolution of director’s in respect of the Share Issue.*

*This letter is issued at the request of the directors of the Company.”.*

It is *ex facie* evident that, this letter only stated that, a sum of Rs. 300 million had been credited to a Current Account maintained by Perpetual Treasuries Ltd prior to 13<sup>th</sup>

September 2013 and that, the Board of Directors of Perpetual Treasuries Ltd had passed a Board Resolution with regard to an Issue of Shares.

However, it appears that this letter dated 13<sup>th</sup> September 2013 satisfied the PDD that, Perpetual Treasuries Ltd had complied with the requirement of increasing its Issued Share Capital to Rs. 300 Million.

Thereafter, at the Meeting of the Monetary Board held on 30<sup>th</sup> September 2013, the Monetary Board, as set out in the document marked “**C55M**”, decided to approve the appointment of Perpetual Treasuries Ltd as a Primary Dealer in Government Securities and as a Direct Participant and Dealer Direct Participant in the LankaSettle System.

We note that, neither the decision of the Monetary Board taken on 09<sup>th</sup> May 2013, and marked “**C55F**” nor the decision of the Monetary Board, taken on 30<sup>th</sup> September 2013, to appoint Perpetual Treasuries Ltd as a Primary Dealer and marked “**C55M**” suggest that, the Monetary Board had considered whether the fact that, Ms. Siromi Wickramasinghe, who is the sister of Mr. Nivard Cabraal, the then the Governor of the CBSL, was a Director of the ultimate Holding Company of Perpetual Treasuries Ltd, gives rise to a conflict of interest. It is also relevant to note that, Perpetual Asset Management (Pvt) Ltd, which, at that time, was the immediate Holding Company of Perpetual Treasuries Ltd, had made substantial Investments in the “Renuka Group of Companies”, with which Mr. Nivard Cabraal had close family connections.

We also note that, Ms. Mano Ramanathan, who was an appointed member of the Monetary Board at that time, testified that the Monetary Board had not discussed the issue of a possible conflict of interest.

As set out in the letter dated 01<sup>st</sup> October 2013 marked “**C55J**”, Mr. Dammika Nanayakkara, the then Superintendent of Public Debt, had advised Perpetual Treasuries Ltd that, it had been appointed as a Primary Dealer under the Local Treasury Bills Ordinance and the Registered Stock and Securities Ordinance.

Finally, we consider it relevant to observe here, that the “BUSINESS PLAN FOR 2013-2014” included in the Application submitted by Perpetual Treasuries Ltd to obtain a Primary Dealer’s License, contained a SWOT Analysis, which highlighted the business opportunities available to Perpetual Treasuries Ltd.

As set out in this Business Plan, the Financial Forecast prepared by Perpetual Treasuries Ltd estimated a Net Profit of Rs. 103.2 Million in the Financial Year ended 31<sup>st</sup> March 2015 and a Net Profit of Rs.116 Million in the Financial Year ended 31<sup>st</sup> March 2016.

It is pertinent to observe here that, in fact, Perpetual Treasuries Ltd made a Net Profit of Rs. 959.5 million in the Financial Year ended 31<sup>st</sup> March 2015 [as opposed to the forecast sum of Rs. 103.2 million] and a Net Profit of Rs. 5.124 billion in the Financial Year ended 31<sup>st</sup> March 2016 [as opposed to the forecast sum of Rs. 116 million].

We also note that, this Business Plan listed several “Opportunities” which Perpetual Treasuries Ltd had identified. One of those “Opportunities” reads as follows:

*“Lack of a developed secondary market for government securities also one of the concern of Public debt department Perpetual Treasuries will promote secondary market transaction using different technique, which its learn from the equity secondary market transaction.”.*

It is pertinent to observe here that, there is evidence before us which suggests that, Perpetual Treasuries Ltd engaged in “market manipulation” and, as Dr. W.A. Wijewardena put it, “*pumping and dumping*”, in the Secondary Market in Treasury Bonds. A question arises as to whether this was one of the “*different technique, which its learn from the equity secondary market transaction.*” which Perpetual Treasuries Ltd, perhaps unwittingly, mentioned when it made an application to obtain a Primary Dealer’s License in 2013.

In this connection, it is relevant to note that, at the time the Application was submitted, the immediate Holding Company of Perpetual Treasuries Ltd was Perpetual Asset Management (Pvt) Ltd, which Perpetual Treasuries Ltd described as one of the “*significant traders*” on the Colombo Stock Exchange.

We also note that, as stated earlier, Perpetual Asset Management (Pvt) Ltd had made Net Profit of Rs. 2.429 Billion in the Financial Year ended 31<sup>st</sup> March 2012 which was a period when the Stock Market was very active and there were allegations, in the public domain, of “market manipulation” and “pumping and dumping”. We also note that, the names of a Perpetual Asset Management (Pvt) Ltd and its Associates are said to have figured in some of these Transactions. It is also seen that, thereafter, Perpetual Asset Management (Pvt) Ltd had made a Net Loss of Rs. 272.3 Million in the Financial Year ended 31<sup>st</sup> March 2013, which was when Perpetual Treasuries Ltd applied to be appointed a Primary Dealer.

### **Section 15.3 - The operations of Perpetual Treasuries Ltd prior to the period our Mandate commenced**

The Financial Statements of Perpetual Treasuries Ltd for the year ended 31<sup>st</sup> March 2014 established that, after having commenced operations in early 2014, Perpetual Treasuries Ltd had made a loss of Rs. 3.784 Million during the Financial Year ended 31<sup>st</sup> March 2014.

Thereafter, in the next 12 months of the Financial Year that ended on 31<sup>st</sup> March 2015, Perpetual Treasuries Ltd made a Net Profit of Rs. 959.569 Million with a Capital Gain of Rs. 43.679 Million and a Net Interest Income on Government Securities amounting to Rs. 22.95 Million.



Thus, it is evident that during a full year of Trading starting on 01<sup>st</sup> April 2014 and ending on 31<sup>st</sup> March 2015, the Net Profits of Perpetual Treasuries Ltd amounted to only Rs. 959.569 Million.

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## CHAPTER 16

### **THE CBSL PRIOR TO 01<sup>ST</sup> FEBRUARY 2015 - THE BACKGROUND WHEN THE PERIOD OF OUR MANDATE COMMENCED**

Although our Mandate covers the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016, we consider it necessary to look at the evidence placed before us and information in the public domain, which shed light on the background which prevailed in CBSL when the period of our Mandate commenced.

We do so because we are of the view that, it will be useful to try to understand the corporate culture and ethos which prevailed in the CBSL at the beginning of 2015, the attitude of senior staff towards the due performance of their duties and the standards of 'Good Governance' and adherence to specified Procedures which were expected from senior staff of the CBSL at that time. Obtaining an idea of the frame of mind and attitudes of the senior staff of the CBSL and the standards expected of these officers, would help us when we assess some of the incidents which took place during the period of our Mandate.

In this connection, we note that, at the beginning of 2015, the CBSL had been under one Governor for over eight years and the Monetary Board had been constituted by the same persons for four and a half years. Two of the Deputy Governors had served in that position for over three years.

In these circumstances, it is likely that, the character and attitudes of these high officials would have shaped the manner in which the senior staff of the CBSL approached their duties.

In that regard, it is a matter of public knowledge that, Mr. Nivard Cabraal, who served as Governor of the CBSL from 01<sup>st</sup> July 2006 until 09<sup>th</sup> January 2015, was a close associate of and was seen to have been politically aligned to the Executive and Government that was in power during his tenure as Governor. It has often been stated in the public domain, that this led to a certain degree of 'politicization' of the actions of the then Governor and the operations of the CBSL during this period.

It could be said that, the extent to which the Governor and the Monetary Board which held office in 2015 had been 'politicized' is demonstrated by the fact that, the then Governor, Mr. Nivard Cabraal and two appointed members of the Monetary Board - namely, Mr. Nimal Welgama and Mr. Neil Umagiliya - resigned from these offices on 09<sup>th</sup> January 2015 - *ie*: on the very day that the results of the Presidential Election held on 08<sup>th</sup> January 2015 became known.

When looking at these resignations, it has to be kept in mind that, the Monetary Law Act proceeds on the basis that, a Governor or an appointed member of the Monetary Board will hold office for a full term of six years. Thus, Section 16 of the Monetary Law

Act stipulates that, a Governor of the CBSL or an appointed member of the Monetary Board can be removed from office by the President only : (i) by reason of being disqualified under Section 11 of the Monetary Law Act due to by reason of becoming a Member of Parliament or a member of a Provincial Council or Local Authority; (ii) by reason of being appointed a Public Officer or a Judicial Officer; or (iii) by reason of being appointed a Director, Officer, Employee or Shareholder of any Banking Institution; or (ii) becomes permanently incapable of performing his duties; (iii) has done any act or thing which, in the opinion of the President, is of a fraudulent or illegal character or is manifestly opposed to the objects and interests of the CBSL; (iv) in the case of the Governor, he or she does not devote his full professional time to the Business of the Bank; or (v) or, in the case of the Governor, if he or she accepts any other office or employment whatsoever whether public or private and whether remunerated or not [but subject to a few specified exemptions].

It appears to us that, in circumstances where it had not been established, in January 2015, that any of the reasons listed in Section 16 of the Monetary Law Act existed, the fact that Mr. Cabraal, Mr. Welgama and Mr. Umagiliya considered it necessary to resign as soon as a new President was elected and the President who appointed them ceased to be President, suggests that, these three gentlemen regarded themselves to 'political appointees' who held office at the will of the President.

No doubt, the CBSL has a duty to cooperate with the Government in implementing the Government's Policies. But, at the same time, when doing so, the CBSL must ensure that it duly discharges its statutory duty, under the Monetary Law Act, to maintain a responsible and prudent Monetary Policy and to endeavour to ensure Economic and Price Stability and Financial System Stability, both in the short term and long term. At the same time, the Monetary Board and the CBSL should maintain, both in reality and in perception by the public, its independence from the Executive and the Government.

A situation where a Governor or members of the Monetary Board or high officials of the CBSL demonstrate that they are unduly 'politicized' or even create a perception to that effect, is very likely to gravely prejudice the CBSL and its ability to duly perform its statutory duties.

Further, a situation where a Governor or members of the Monetary Board or high officials of the CBSL demonstrate that they are unduly 'politicized' or are perceived as being so, is likely to influence the senior staff of the CBSL to follow suit and, also, to be readily amenable to the instructions of the Governor or members of the Monetary Board or high officials of the CBSL, irrespective of the propriety or good sense of such instructions.

It appears to us that, these attitudes are likely to have held sway in the corporate culture and ethos which prevailed in the CBSL at the beginning of 2015.

It is also relevant to state here that, the evidence before us shows that, for many years, the Staff of the CBSL have had, what we may call an "undue reverence" for the

authority of the Governor. While we do not suggest that, the authority of a Governor and the respect for the Office of the Governor of the CBSL should be diminished, we are of the considered opinion that, the senior staff of the CBSL must be confident that they are free to discuss issues with the Governor and to disagree with him where they consider it necessary to do so. However, that does not appear to have been the case in the CBSL where, it appears that, over a long period of time, an incumbent Governor is elevated to position of unquestioned authority when he issues a direction.

Thus, as mentioned earlier, Dr. W.A. Wijewardena commented that, *“in the case of the hierarchical structure of the Central Bank Governor is an official who has enormous powers, so as a result when the Governor walks into a Department or a Committee meeting where you are discussing something, it actually frightens the members there, its something that normally doesn’t happen. So because of that reason the cultural practice in the Central Bank is such that people will yield, will become an accommodating hand to the decision of the Governor.”*

Further, when the Commission of Inquiry asked Dr. Wijewardena, *“I am glad you mentioned that, because there had been several witnesses who have in their evidence establishes to us that there was sort of a reverential treatment, unduly reverential treatment for Governor of the Central Bank. Is that your experience also ?”*, he replied, *“That is true Your Honour because I have seen in the Central Bank several Deputy Governors being de-attached by the Governor because the deputy governors had not been carrying out the instructions given by the Governor there.”* Dr. Wijewardena added that, in his *“..... long career 36 years experience in the Central Bank there are two occasions where the Deputy Governors were de-attached. So no Deputy Governor wants to run that risk.”*

It seems to us that, it is likely that this attitude of the Staff of the CBSL towards an incumbent Governor, may lead them to unquestioningly carry out the instructions of that Governor, irrespective of the propriety or even good sense of such instructions.

The evidence suggests that, this unfortunate attitude prevailed at the CBSL prior to and during the period of our mandate.

We also note that, the evidence placed before us suggests that, several aspects of the actions and operations of the CBSL during the period prior to February 2015 reflect that, there was a degree of laxity in the level of supervision over the day-to-day operations in some areas of the CBSL or even, perhaps, a willingness, on the part of the high officials of the CBSL, to close a ‘blind eye’ to some aspects of the operations of the CBSL during that period. The evidence placed before us also suggests that, some decisions and acts of the CBSL during the period prior to February 2015, raise questions with regard to the propriety and prudence of those decision and acts.

It is likely that, these circumstances, influenced the manner in which the senior staff of the CBSL approached the performance of their duties and may have fostered a sense of laxity in the levels of supervision exercised by senior staff and, perhaps, a degree

of 'tolerance' in instances where it was apparent that, specified Procedures had been disregarded in the day to day operations in some areas of the CBSL.

In this regard, we consider the following decisions, actions and operations of the CBSL during the period prior to February 2015, are likely to have had particularly significant influences on the manner in which the senior staff of the CBSL approached the performance of their duties:

- 1] As stated in the Annual Report of the CBSL for the Year 2013, which was marked "**C91**", the CBSL made a Net Loss of Rs. 24.264 billion in the Financial Year ended 31<sup>st</sup> December 2013, after having made a Net Profit of Rs. 66.209 Billion during the previous Financial Year.

As stated in the Annual Report of the CBSL for the Year 2014, which was marked "**C92**", the CBSL made a Net Loss of Rs. 32.309 billion during the Financial Year ended 31<sup>st</sup> December 2014.

As stated in the Annual Report of the CBSL for the Year 2015, which was marked "**C93**", the CBSL reduced its Net Loss to Rs. 19.602 billion in the Financial Year ended 31<sup>st</sup> December 2015 and, as set out in the Annual Report of the CBSL for the Year 2016, which was marked "**C94**", the CBSL reverted back to being a Profit making Institution and recorded a Net Profit of Rs. 22.180 billion during the Financial Year ended 31<sup>st</sup> December 2016.

We consider it very unusual, to say the least, for the CBSL to have incurred Losses in 2013 and 2014, especially in view of the positive statements made by the CBSL in its Survey of the "*ECONOMIC, PRICE AND FINANCIAL SYSTEM STABILITY, OUTLOOK AND POLICIES*" and other Sections in Part I of the Annual Reports for the Financial Year ended 31<sup>st</sup> December 2013 and 31<sup>st</sup> December 2014.

In this connection we note that, Dr. Wijewardena expressed much surprise that the CBSL could incur Losses and ascribed these Losses to "*unusual expenses that had popped into the accounts of the Central Bank*" in the period 2013-2014. Dr. Wijewardena identified the following as "*unusual expenses*" which contributed to these Losses: Profit Transfers to the Government despite making the CBSL Losses [which meant that the Transfers had to be made out of Capital], Sales and Purchases of Gold which resulted in Losses, Foreign Exchange Deals which resulted in Losses and Consultancy Fees.

The very fact that, the CBSL made Losses during this period raises very substantial questions on the propriety and prudence of the decisions taken by the then Governor, Monetary Board and senior officials of the CBSL, which led to these Losses.

Further, these circumstances had to have a significant effect on the manner in which the senior staff of the CBSL approached their duties;

- 2] It is in the public domain that, during the period prior to 2015 and, especially, during 2010 and 2011, the EPF, which comes under the direct control of the Monetary Board of the CBSL, is said to have been involved in questionable trading activities on the Colombo Stock Exchange.

There were allegations made in the public domain, that the EPF engaged in large scale Transactions in Shares in Companies such as Piramal Glass Ceylon PLC, Galadari Hotels (Lanka) PLC, Laugfs Gas PLC, Ceylon Grain Elevators PLC, Brown and Company PLC during this period and that some of these Transactions raised the inference of “pumping and dumping” and “market manipulation”. There were allegations that, the EPF knowingly acquired Shares which resulted in the EPF incurring substantial losses.

It has been said that these Transactions by the EPF and a cartel of influential investors resulted in a crisis in 2011, when the All Share Price Index fell significantly and caused a huge drop in Market Value. This situation is said to have led to the then Chairman of the Securities and Exchange Commission, Ms. Indrani Sugathadasa, a highly respected officer, resigning from that Office in December 2011. It was reported that, she did so to “*uphold her principles*”. Her successor, Mr. Tilak Karunaratne also resigned about nine months after assuming Office as Chairman of the Securities and Exchange Commission.

Concerns regarding these Transactions were frequently raised by several members of the Civil Society and, notably, by the Inter-Company Employees Union.

However, the CBSL is not seen to have taken any substantive action, at that time, to investigate or to clear the air with regard to these allegations even though the trail of the Transactions entered into by EPF was publicly known since these Transactions took place on the Colombo Stock Exchange. In this connection, we also note that, as mentioned earlier, the EPF had not installed a Voice Logger at that time. even though such equipment is a *sine qua non* in a Dealing Room where Dealers transact on a Stock Exchange.

The fact that, CBSL took no action despite these circumstances, had to have an adverse effect on the manner in which the senior staff of the CBSL approached their duties.

It is relevant to mention here that, Mr. Saman Kumara and Mr. Udayaseelan, who we referred to earlier in Chapter 13, were Officers of the Fund Management Division of the EPF during the period 2010- 2012. It is also



relevant to note that, the names of some Companies in the “Perpetual Group of Companies” are said to have figured in some of the Transactions referred to earlier;

- 3] Prior to 27<sup>th</sup> Feb 2015 and under the previous administration of the CBSL, the PDD followed a deliberate policy of issuing over 90% of Treasury Bonds by way of Direct Placements.

We have previously observed that, prior to 27<sup>th</sup> February 2015, there were irregularities in the making of Direct Placements and that, the Auditor General has identified a large number of Direct Placements which had been accepted at Yield Rates which were outside the permitted ranges of Yield Rates.

Here too, the fact that, CBSL took no action despite these circumstances, had to have a significant effect on the manner in which the senior staff of the CBSL approached their duties;

- 4] The purchase, by the CBSL, of “Greek Bonds” to the value of approximately Euro 30 million, which Mr. H.A Karunaratne said, was estimated by the Auditor General to have resulted in a Loss of USD 15.6 Million. Mr. H.A. Karunaratne stated that this purchase was a result of an informal decision taken by some senior officials at a “*gathering*” or a “*casual meeting*” which was approved by the then Governor but was not submitted to the Monetary Board, for prior approval.

It appears to us that, Mr. H.A. Karunaratne’s evidence on this matter indicates the existence of a culture within the CBSL which vested in the Governor and some high officials, the power to take very significant decisions without necessarily adhering to proper Procedures, which require first carrying out a careful and prudent assessment of all the relevant facts, policies and long term consequences which such decisions may have;

- 5] The omission on the part of the CBSL to establish a Regulatory and Compliance Department and a Risk Management Department to secure the CBSL even though such Units are considered to be essential for any large scale Corporate Institution which deals in Finance and Money.

The fact that, CBSL did not consider it necessary to operate the aforesaid specialized Departments is likely to have given the message that ‘Regulatory and Compliance’ functions and ‘Risk Management’ were not of high priority and is likely to have shaped the attitudes of the senior staff of the CBSL.

The pliant and acquiescent attitudes adopted by the senior staff of the CBSL in the course of the events of 27<sup>th</sup> February 2015 - which took place just over a month after Mr. Mahendran assumed office as the Governor of the CBSL and, therefore, in the

background of the corporate culture and ethos he inherited - tellingly demonstrate the manner in which senior staff of the CBSL approached their duties, at that time.

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## CHAPTER 17

### **THE APPOINTMENT OF ARJUNA MAHENDRAN AS GOVERNOR OF THE CENTRAL BANK OF SRIL ANKA AND HIS ACTIONS SOON AFTER ASSUMING OFFICE**

#### **The appointment of Mr. Mahendran as Governor of the CBSL**

Mr. Arjuna Mahendran was appointed the Governor of the CBSL on 23<sup>rd</sup> January 2015.

Thus, the appointment was made before the period our Mandate commenced and we are not required to determine the merits or demerits of the appointment.

However, we cannot be blind to the fact that, there have been concerns expressed in the public domain, with regard to the propriety of Mr. Mahendran's appointment following reports of his alleged intervention in the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and his relationship with Mr. Arjuna Aloysius who had close connections with the Primary Dealer named Perpetual Treasuries Ltd, which obtained the lion's share of the Bids accepted at that Auction.

Concerns have also been expressed in the public domain, with regard to whether the fact that Mr. Mahendran is not a Citizen of Sri Lanka made it unlawful or unsuitable for him to have been appointed the Governor of the CBSL.

Therefore, we decided to briefly look at these issues, though we will not, in terms of our Mandate, venture to arrive at any determinations on these issues.

When Mr. Mahendran gave evidence before us, he stated that, he had been working in Dubai in January 2015 and that, he had received a telephone call from the Hon. Prime Minister, Ranil Wickremesinghe, MP, who had invited Mr. Mahendran to accept appointment to the office of the Governor of the CBSL.

In these circumstances, the Commission of Inquiry asked the Hon. Prime Minister whether he had invited Mr. Mahendran to accept appointment as the Governor of the CBSL. In reply, the Hon. Prime Minister stated, *"Yes. It is correct that sometime in January 2015, I invited Mr. Arjuna Mahendran to serve as the Governor of the CBSL of Sri Lanka."* In this connection, we note that, the Hon. Prime Minister is also the Minister of National Policies and Economic Affairs, under which the CBSL has been placed.

Next, in view of the requirements of Section 12 (1) of the Monetary Law Act which states that, an appointment of the Governor of the CBSL has to be made by the President on the recommendation of the Minister of Finance, the Commission of Inquiry asked the Hon. Prime Minister whether Mr. Mahendran was appointed on a recommendation made by the then Minister of Finance and/or on a recommendation

made by the Hon. Prime Minister as the Minister of National Policies and Economic Affairs under which the CBSL has been placed.

The Hon. Prime Minister replied, *“Upon the formation of the new Government in January 2015 there was a general consensus within the Government that Mr. Mahendran should be appointed to the post of Governor of CBSL. I discussed the proposed appointment with the then Minister of Finance who agreed that Mr. Mahendran was the most suitable candidate. Accordingly, the then Minister of Finance with my concurrence recommended to His Excellency the President that Mr. Mahendran should be appointed. His Excellency the President acting upon the said recommendation appointed Mr. Arjuna Mahendran as the Governor of the CBSL.”*

Thereafter, the Commission of Inquiry asked the Hon. Prime Minister the reasons why he considered Mr. Mahendran to be a fit and suitable person to be appointed the Governor of the CBSL.

In reply, the Hon. Prime Minister stated, *“Mr. Mahendran was selected for appointment in view of his professional qualifications and experience in the field of banking and investments. He had functioned as the Chairman of the BOI during the period 2002 to 2004. He has also held senior positions in the banking industry in Middle East and Singapore. The previous incumbent lacked comparable qualifications and experience and the administration of the CBSL during his tenure of office had been subject to severe criticism. Hence, prior to the General Election of 2015 there was a general demand from our political allies that a competent person versatile in banking and International finance should be appointed to the post of Governor of the CBSL.”*

We note from the evidence before us that, after graduating from University, Mr. Mahendran served in the CBSL, during the period 1983 to 1993. Therefore, he would have been familiar with the basic structure and operations of the CBSL. Mr. Mahendran then proceeded abroad and has had a long and successful career in Banking, especially in Investment Banking. He held high level Management Positions, for many years, in Hong Kong, Singapore and the Middle East, at the Societe Generale, AG, HSBC Private Bank, Credit Suisse Group AG and Emirates NBD. From 2002 to 2004, Mr. Mahendran served as the Chairman of the Board of Investment of Sri Lanka.

Thus, when Mr. Mahendran was appointed as Governor of the CBSL, he had: a “hands on” knowledge of the CBSL after having worked at the CBSL for a considerable period of time at the commencement of his career; a long and successful career in International Banking thereafter, where he held high level management positions and gained in depth exposure to and experience of International Finance; knowledge of international Markets which Sri Lanka needs to participate in; and also experience as a Chairman of the Board of Investment of Sri Lanka.

In this connection, we also note that, from 2004 onwards, the Governor of the CBSL has been a person appointed to that post from outside the cadre of Officers of the CBSL and persons with no experience in “Central Banking”.

From 2004 onwards, these appointments have been made without the CBSL or the Government following any process of evaluation and selection which is known to the public. In our Recommendations, we have recommended significant changes to the process of appointment of a Governor of the CBSL.

Next, although Mr. Mahendran was a Sri Lankan Citizen at birth, he has assumed Citizenship of the Republic of Singapore at some point before 2015. Thus, at the time he was appointed the Governor of the CBS, Mr. Mahendran was not a Citizen of Sri Lanka and has not been a Citizen of Sri Lanka to this date.

In these circumstances, the Commission of Inquiry asked the Hon. Prime Minister for his view on the suitability of a person who is not a citizen of Sri Lanka, performing the duties of the Governor of the CBSL.

In reply, the Hon. Prime Minister stated, *“Although at the time of his appointment Mr Mahendran had ceased to be a citizen of Sri Lanka, he was nevertheless, of Sri Lankan origin. He used to regularly visit his parents who were resident in Colombo and as such he had an abiding interest in, and connection with Sri Lanka. Many Sri Lankans had left the country for positions abroad due to the unsettled conditions prevalent in the country at various times.*

*The fact that Mr. Mahendran was not a citizen of Sri Lanka did not affect his suitability or eligibility and was not a legal impediment to his appointment as the Governor of CBSL. In this context, it is to be noted that the very first Governor of the Central Bank, namely, Mr. John Exeter had been an American national. Likewise, Mr. Mark Joseph Carney who is not a British subject but a Canadian national is the current Governor of the Bank of England.”.*

We agree with the Hon. Prime Minister that, the provisions of the Monetary Law Act, the Constitution and the Law do not require that the Governor of the CBSL must be a Citizen of Sri Lanka.

It is also clear that, Mr. Mahendran, who was a Sri Lankan Citizen at birth and had his Primary and Secondary Education in Sri Lanka and appeared to well qualified to handle the duties of a Governor of the CBSL, has deep roots in Sri Lanka and has had continuous connections with Sri Lanka despite working abroad for many years and assuming Citizenship the Republic of Singapore at some point in time.

In these circumstances, it is apparent that, the question of whether or not the fact that, Mr. Mahendran was not a Citizen of Sri Lanka precluded him from being appointed the Governor of the CBSL was not a ‘Question of Law’. Instead, it was a ‘value judgment’ which had to be made by those who considered the wisdom of appointing Mr. Mahendran, who was not a Citizen of Sri Lanka, the Governor of the CBSL.

The Commission of Inquiry also asked the Hon. Prime Minister whether he was aware that, Mr. Mahendran's son-in-law, Mr. Arjun Aloysius was the Chief Executive and a Director of the Primary Dealer named Perpetual Treasuries Ltd in the year 2014 and up to sometime in January 2015 when Mr. Aloysius resigned from both posts. The Commission of Inquiry also asked the Hon. Prime Minister whether he considered this position raised a potential conflict of interest which could confront Mr. Mahendran in the performance of his duties as the Governor of the CBSL.

In reply, the Hon. Prime Minister said he was aware that, Mr. Aloysius was the Chief Executive and Director of Perpetual Treasuries Ltd and stated that, *"When Mr. Mahendran was offered the post of the Governor of the CBSL, I insisted that he should ensure that Mr. Aloysius would resign as a Director of Perpetual Treasuries Ltd and not involve himself in the business activities of that company in anyway. I also recommended that the best course of action would be for Mr. Aloysius to divest himself of his shares in the company. This was conveyed by me to both Mr. Mahendran as well as to Mr. Aloysius. Subsequently, I became aware that Mr. Aloysius had in the month of January itself resigned from the post of Chief Executive Officer and Director of Perpetual Treasuries Ltd. I also became aware that he remained a Shareholder of that company and he intimated that he would divest himself of the shareholdings as soon as possible. On expressing my concerns on this account, Mr. Mahendran reassured me that Mr. Aloysius would not under any circumstances play any role in the business activities of the company. I had every confidence in the assurances given by Mr. Mahendran and as such I had no reason to apprehend that any conflict of interest would be faced by Mr. Mahendran in functioning as the Governor of the CBSL."*

Thus, the evidence before us is that, at the time Mr. Mahendran was appointed the Governor of the CBSL, the Hon. Prime Minister had directed that, Mr. Arjun Aloysius must resign from all positions he held in Perpetual Treasuries Ltd and that, Mr. Aloysius must not have any connection with the operations of Perpetual Treasuries Ltd. Further, the Hon. Prime Minister has recommended that, Mr. Aloysius divests himself of any shareholdings in Perpetual Treasuries Ltd. Subsequently, Mr. Aloysius has resigned from all positions he held in Perpetual Treasuries Ltd and Mr. Mahendran has assured the Hon. Prime Minister that, Mr. Aloysius *"would not under any circumstances play any role in the business activities of"* Perpetual Treasuries Ltd.

When, on 20<sup>th</sup> November 2017, the Commission of Inquiry asked the Hon. Prime Minister whether he was aware that, Mr. Arjun Aloysius continued to be a Shareholder and Director of Perpetual Capital Holdings (Pvt) Ltd and Perpetual Capital (Pvt) Ltd, which were the ultimate owning Companies of Perpetual Treasuries Ltd, the Hon. Prime Minister said he was not aware of this fact.

Thus, it appears that, when Hon. Prime Minister concurred with the recommendation made by the then Minister of Finance to His Excellency, the President to appoint Mr. Mahendran as Governor of the CBSL, the Hon. Prime Minister has relied on the



assurances given by the Mr. Mahendran that he will ensure that, Mr. Aloysius plays no part whatsoever in the operations of Perpetual Treasuries Ltd and the fact that, by then, Mr. Aloysius had resigned from all positions held in Perpetual Treasuries Ltd.

The issue of whether a conflict of interest arose as a result of Mr. Mahendran's son-in-law, Mr. Arjun Aloysius, being closely connected to Perpetual Treasuries Ltd, will be considered subsequently.

In passing, we would also mention that, prior to 2015, the CBSL was placed under the Minister of Finance. In 2015, the CBSL has been brought under the Minister of National Policies and Economic Affairs. That is a decision taken by the Executive which is entirely outside the scope of our Mandate.

### **Mr. Mahendran's actions soon after assuming office**

Mr. Mahendran assumed duties as the Governor of the CBSL on 26<sup>th</sup> January 2015.

He took over an Institution which had the characteristics we have referred to in Chapter 16.

Mr. Mahendran appears to have immediately sought to assert control and he said he wished to introduce a different culture to the CBSL. Mr. Mahendran said he intended to maintain an "open door" policy.

As part of these efforts, Mr. Mahendran has considered it necessary to "*have a reshuffle*" of the Heads of Department and a re-allocation of the duties of Assistant Governors and Deputy Governors.

This resulted in Mr. Mahendran causing the transfer of 14 out of the 29 Heads of Department in the CBSL and the reallocation of the duties of most of the Assistant Governors and Deputy Governors, on 09<sup>th</sup> February 2015.

The evidence placed before us is to the effect that, Mr. Mahendran did not engage in a process of consultation with his Deputy Governors, Assistant Governors and Senior Staff before ordering the transfers and re-allocations of duties.

We can well understand Mr. Mahendran's wish to make changes in the positions occupied by members of the Senior Management of the CBSL upon assuming office as the Governor of the CBSL, especially after the CBSL had been administered by his predecessor for eight years.

It is neither unusual nor necessarily imprudent for an incoming Head of an Organization to make significant changes in the allocation of duties of his Senior Management.

In fact, it might be argued that such changes were necessary to “shake up” the CBSL and to instill a new culture in the CBSL in order to implement the newly elected Government’s promise of ‘Good Governance’.

However, Mr. Mahendran’s apparent omission to discuss and consult with the Senior Management before effecting the transfers and re-allocation of duties seems to have causing much resentment and anger in the minds of his senior staff. Some of the witness said that, they felt ashamed that they had been transferred from their previous positions, because they felt that the transfer reflected a degree of inefficiency or inadequacy on their part.

The evidence of several witnesses who testified before us suggests that, these feelings of resentment and anger caused by the transfers and re-allocation of duties, may have clouded the minds of several members of the senior staff of the CBSL for a long period of time and adversely affected their relationships with Mr. Mahendran.

Soon after he assumed duties as Governor, Mr. Mahendran also re-aligned the “Clusters” which his three Deputy Governors oversaw. The CBSL had assigned each Deputy Governor the responsibility of overseeing a “Cluster” of Departments. Mr. Mahendran made changes to the Departments which fell under each “Cluster”. These changes appear to have been sensible and in the interests of the better administration and governance of the CBSL.

Soon after he assumed duties as Governor, Mr. Mahendran also disbanded the “Governor’s Secretariat Department” which his predecessor had created.

Other than for the transfers and reallocation of duties, the re-alignment of the “Cluster” and the disbanding of his predecessor’s “Governor’s Secretariat Department”, Mr. Mahendran did not take any other significant actions after assuming duties, until his intervention in the Treasury Bond Auction held on 27<sup>th</sup> February 2015, which is referred to in detail, in Chapter 19.

We should also state here that, in the course of 2015, Mr. Mahendran took the long overdue step of establishing a Legal and Compliance Department and a Risk Management Department. He also established a Department of Supervision of Micro-Finance Institutions in order to create a specialized Unit to supervise the operations of the burgeoning number of corporate entities which offered Micro-Finance to the public. Mr. Mahendran also took the salutary step of establishing four Department Level Regional Offices to cater to the needs of the Provinces.

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## CHAPTER 18

### **THE KEY PERSONNEL IN THE PUBLIC DEBT DEPARTMENT DURING THE PERIOD OF OUR MANDATE**

We need to look at consider the key personnel in the PDD, since the composition of the Management of the PDD during the period of our Mandate is relevant to the manner in which the PDD acted during this time.

Mr. N.W.G.R.D. Nanayakkara had functioned as the Superintendent of Public Debt, prior to 09<sup>th</sup> February 2015. As set out in the evidence placed before us, Mr. Mahendran had transferred Mr. Nanayakkara out of the PDD, on 06<sup>th</sup> February 2015.

We cannot find fault with Mr. Mahendran for having done this since Mr. Nanayakkara had served as Superintendent of Public Debt, for over three years by February 2015. In this connection we note that the CBSL did not have a specified Policy with regard to the period a Head of Department is normally assigned to a post. Further, the various allegations that had been made with regard to the irregularities in the acceptance of Direct Placements, may well have made Mr. Mahendran think that it was suitable to make this transfer.

After transferring Mr. Nanayakkara out of the PDD, Mr. Mahendran appointed Ms. C.M.D.N.K. Seneviratne as the Superintendent of Public Debt from 09<sup>th</sup> February 2015 onwards.

Ms. Seneviratne has been described to us as a competent officer who possessed good Management Skills. However, the evidence also establishes that she had not worked at the PDD prior to being asked to carry out the responsibilities of the Superintendent of Public Debt.

Ms. Seneviratne stated to us that, she had been apprehensive about her lack of knowledge about the Operations of the PDD, which she thought were "*highly technical*" in nature. Thus, it would appear that, Ms. Seneviratne had little knowledge of the technicalities and complexities of the day to day operations of the PDD at the time she assumed duties as the Superintendent of Public Debt on 09<sup>th</sup> February 2015.

It could be reasonably assumed that, Ms. Seneviratne would soon gather the required knowledge and skills to functions as a competent Superintendent of Public Debt. However, this process is likely to have taken at least a few weeks, if not a month or two.

We note that, at the time Ms. Seneviratne was appointed as the Superintendent of the PDD, she was able to rely on the expertise and experience of Dr. Aazim and Ms. Mutugala, who served as the Additional Superintendents of Public Debt.

Dr. Aazim had been attached to the PDD from September 2013, first as Deputy Superintendent of Public Debt and, thereafter, from August 2014, as an Additional Superintendent. He had extensive knowledge of the technicalities of the Operations of the PDD and was regarded as being a competent and skilled Officer. Thus, his presence in the PDD and his assistance should have enabled Ms. Seneviratne to perform her duties as the Superintendent of Public Debt, even during the early part of her tenure in that office.

In this light, we feel that Mr. Mahendran was justified in stating that, *“Dr. Aazim is there so he (she) will be able to handle it with the help of Dr. Aazim”* when Ms. K. Gunatilleke expressed her concern about Ms. Seneviratne not being able to carry out her duties properly.

The other Additional Superintendent of the PDD at the time Ms. Seneviratne took over, was Ms. Mutugala. She had served as an Additional Superintendent of Public Debt, from 01<sup>st</sup> January 2012 and was well versed in the daily operations of the PDD. She too would have also been in a position to assist and guide Ms. Seneviratne to carry out her duties. Ms. Mutugala continued to serve as an Additional Superintendent of the PDD during the period of our Mandate. Dr. Aazim was subsequently, transferred out of the PDD in September 2015.

Ms. Seneviratne was transferred out of the PDD on 21<sup>st</sup> September 2015, and was replaced by Mr. T.H.B. Sarathchandra, who took over as Superintendent of Public Debt. Mr. Sarathchandra had previously served as an Additional Superintendent of the PDD, and appears to have had the technical skills required to function in the capacity of Superintendent of Public Debt, at the time of his transfer to that post.

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## CHAPTER 19

### **THE ISSUE OF TREASURY BONDS DURING THE PERIOD FROM 01<sup>ST</sup> FEBRUARY 2015 TO 31<sup>ST</sup> MARCH 2016**

#### **Section 19.1 - Overview**

During the period of our Mandate - *ie*: from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016 - the CBSL held Auctions of Treasury Bonds on 45 days at which 127 Offers were made for the issue, by way of Auction, of Treasury Bonds with various ISINs.

The Procedure followed at a Treasury Bond Auction has been described, in some detail. In brief: first, all Primary Dealers and the Public are notified of each Treasury Bond Auction; After the Auction is opened, Bids are placed by Primary Dealers, on a competitive basis, on an Electronic Bidding System; the Bids are known only after the Auction is closed; thereafter, the Bids are evaluated by the senior officers of the PDD who make their recommendations to the Tender Board with regard to the value of Bids which should be accepted; the Tender Board, which comprises of senior officers of the Bank with a wealth of experience and expertise in several areas of operations of the CBSL which are connected with Public Debt, consider the recommendations of the PDD and decide the amounts of the Bids that are to be accepted; finally, the Governor considers and approves the decision of the Tender Board.

We are of the view that, this process, if properly followed without impropriety on the part of the persons involved in the process and/or interference by third parties, would ensure that, the CBSL reaches a proper and prudent decision when Bids are accepted at an Auction of Treasury Bonds.

Therefore, in order to properly discharge our Mandate to investigate and inquire into and report on, *inter alia*, “*The issuance of Treasury Bonds during the period of 1<sup>st</sup> February 2015 and 31<sup>st</sup> March 2016 .....*”, we consider that, we should examine all 127 Offers for Treasury Bonds made at the Auctions held on 45 days during the period of our Mandate and ascertain whether there are any unusual features in the Results of any of those Auctions which highlight those particular Auctions as being Auctions which should be examined further.

In order to facilitate this process of examining all 127 Offers for Treasury Bonds made at the Auctions held on 45 days, we have prepared a Table setting out the following details of each of those Auctions:

- [1] The Date of the Auction.
- [2] The ISINs of each of the Treasury Bonds offered at the Auction.
- [3] The Tenor of each of the Treasury Bonds offered at the Auction.
- [4] The Coupon Rate of each of the Treasury Bonds offered at the Auction.
- [5] The Amount Offered in respect of each of the Treasury Bonds offered at the Auction.
- [6] The Total Value of the Bids received, for each the Treasury Bonds offered at the Auction.
- [7] The Amounts that the PDD recommended be accepted, in respect of each of the Treasury Bonds offered at the Auction.
- [8] The Amounts of each of the Treasury Bonds that were accepted, at the Auction.
- [9] The Weighted Average Yield Rate [Net of Tax] of the Bids accepted at the Auction.
- [10] The Amount that was accepted on each Treasury Bond as a Percentage of the Amount that was offered.
- [11] The Name/s of any Primary Dealer who obtained 35% or more of the Amount that was accepted on each Treasury Bond.

This Table is attached as **ANNEX I**, to this Chapter.

After considering the extensive evidence that has been placed before us, we have decided that, it is reasonable and sufficient for the purpose of enabling us to properly discharge our Mandate, to use the following criteria to identify Auctions where there are unusual features in the Results of those Auctions which require that those Auctions should be examined further:

- (i) *Any Auction where the amount accepted was more than 3 times the amount offered;*
- (ii) *Any Auction where a Primary Dealer who is not a “Captive Source” obtained 35% or more of the amount of Treasury Bonds issued at that Auction.*



When determining the first criterion, we have taken into account the evidence of several witnesses who served in the PDD that, the usual practice of the CBSL was to accept about 2 or 3 times the amount offered at an Auction.

We are aware that, the mere fact that the amount accepted at the Auction was more than 3 times the amount offered, does not mean that there has been any irregularity in that Auction. Instead, such a decision might well have been the most suitable course of action in the circumstances of that particular Auction.

Therefore, we use this criterion only to identify the Auctions which are highlighted by the application of this criterion, as being Auctions, which require further examination.

We should also mention here that, during the period of our Mandate, there were 30 instances where all Bids were rejected at an Auction because the Yield Rates at which Primary Dealers had placed Bids at that Auction, were too high for the CBSL to accept.

The first such instance when all the Bids placed at an Auction were rejected during the period of our Mandate, occurred on 16<sup>th</sup> April 2015. On that occasion, the Tender Board has stated, in its Minutes, as the reason for the rejection of all Bids placed at that Auction, that, *“Accordingly, the Tender Board deliberated on the option to reject all bids to give a signal to the market, that yield rates are not consistent with current market conditions.”*

Apparently, the rejection of all Bids placed at the Auction held on 16<sup>th</sup> April 2015 had the desired effect on the Yield Rates in the Market and the Tender Board has noted in its Minutes relating to the next Auction held on 21<sup>st</sup> April 2015, *“Decline in the secondary market yield rates following the rejection of Treasury bond auction last week and market response to the 50 basis point reduction in policy rates on 15.04.2015.”*

We see, from a survey of the Auctions held during the period our Mandate and the movements in the Yield Rates which prevailed during this time, that the strategy of rejecting all Bids at an Auction, has met with a degree of success in guiding Yield Rates downwards by the time of the next Auction.

This is a discretionary measure which the PDD and the Tender Board were entitled to utilise when they considered it necessary to do so and we have not seen any evidence which suggests that, this discretion has been exercised improperly.

When determining the second criterion, we took the view that, a Primary Dealer [who is *not* a “Captive Source”] who obtains 35% or more of the Treasury Bonds issued at an Auction has achieved unusual success at that Auction.

While we are well aware that, the fact that a Primary Dealer has succeeded in obtaining 35% or more of the amount of Treasury Bonds issued at an Auction does not mean that there has been any irregularity in that Auction or any impropriety on the

part of the Primary Dealer, we consider that, we are required to look further into that Auction.

We decided to exclude Primary Dealers who are “Captive Sources” and the EPF when formulating this criterion because those Primary Dealers and the EPF are controlled by the Government and also often act in pursuance of the requirements of the Government or State owned Institutions, when placing Bids at Auctions of Treasury Bonds.

On an application of the first criterion, we have identified the following 5 Auctions as being Auctions where the amount accepted was more than 3 times the amount offered:

- (1) The Auction held on 27<sup>th</sup> February 2015 at which Treasury Bonds bearing ISIN LKB03045C013 to the value of Rs. 1 billion were offered and Bids to the value of Rs.10.058 billion were accepted;
- (2) The Auction held on 15<sup>th</sup> September 2015 at which Treasury Bonds bearing ISIN LKB01528I017 to the value of Rs. 3 billion were offered and Bids to the value of Rs.10.884 billion were accepted;
- (3) The Auction held on 28<sup>th</sup> January 2016 at which Treasury Bonds bearing ISIN LKB01530E152 to the value of Rs. 5 billion were offered and Bids to the value of Rs.15.650 billion were accepted;
- (4) The Auction held on 05<sup>th</sup> February 2016 at which Treasury Bonds bearing ISIN LKB01530E152 to the value of Rs. 3 billion were offered and Bids to the value of Rs.10.455 billion were accepted;
- (5) The Auction held on 17<sup>th</sup> March 2016 at which Treasury Bonds bearing ISIN LKB01024A014 to the value of Rs. 2 billion were offered and Bids to the value of Rs.6.620 billion were accepted.

On an application of the second criterion, we have identified the following 25 Auctions as being Auctions where a Primary Dealer who is *not* a “Captive Source” has obtained 35% or more of the amount of Treasury Bonds issued at that Auction:

- (1) The Auction held on 27<sup>th</sup> February 2015 at which Treasury Bonds bearing ISIN LKB03045C013 were offered and Perpetual Treasuries Ltd obtained 50% of the Treasury Bonds that were issued at that Auction. [This Auction was identified under the first Criterion too];
- (2) The Auction held on 17<sup>th</sup> March 2015 at which Treasury Bonds bearing ISIN LKB00619I155 were offered and Acuity Securities

Ltd obtained 41% of the Treasury Bonds that were issued at that Auction;

- (3) The Auction held on 17<sup>th</sup> March 2015 at which Treasury Bonds bearing ISIN LKB00821H019 were offered and Acuity Securities Ltd obtained 39% of the Treasury Bonds that were issued at that Auction;
- (4) The Auction held on 21<sup>st</sup> April 2015 at which Treasury Bonds bearing ISIN LKB00618F013 were offered and First Capital Treasuries Ltd obtained 44% of the Treasury Bonds that were issued at that Auction;
- (5) The Auction held on 14<sup>th</sup> July 2015 at which Treasury Bonds bearing ISIN LKB00418J150 were offered and Commercial Bank of Ceylon PLC obtained 37% of the Treasury Bonds that were issued at that Auction;
- (6) The Auction held on 27<sup>th</sup> July 2015 at which Treasury Bonds bearing ISIN LKB00619G019 were offered and HSBC obtained 72% of the Treasury Bonds that were issued at that Auction;
- (7) The Auction held on 27<sup>th</sup> July 2015 at which Treasury Bonds bearing ISIN LKB00821H019 were offered and HSBC obtained 65% of the Treasury Bonds that were issued at that Auction;
- (8) The Auction held on 11<sup>th</sup> August 2015 at which Treasury Bonds bearing ISIN LKB00520E014 were offered and HSBC obtained 54% of the Treasury Bonds that were issued at that Auction;
- (9) The Auction held on 08<sup>th</sup> September 2015 at which Treasury Bonds bearing ISIN LKB00520E014 were offered and Acuity Securities Ltd obtained 59% of the Treasury Bonds that were issued at that Auction;
- (10) The Auction held on 08<sup>th</sup> September 2015 at which Treasury Bonds bearing ISIN LKB01023I019 were offered and Perpetual Treasuries Ltd obtained 45% of the Treasury Bonds that were issued at that Auction;
- (11) The Auction held on 15<sup>th</sup> September 2015 at which Treasury Bonds bearing ISIN LKB00922J011 were offered and Perpetual Treasuries Ltd obtained 37% of the Treasury Bonds that were issued at that Auction;

- (12) The Auction held on 15<sup>th</sup> September 2015 at which Treasury Bonds bearing ISIN LKB01025H016 were offered and Wealth Trust Securities Ltd obtained 39% of the Treasury Bonds that were issued at that Auction;
- (13) The Auction held on 15<sup>th</sup> September 2015 at which Treasury Bonds bearing ISIN LKB01528I017 were offered and Wealth Trust Securities Ltd obtained 39% of the Treasury Bonds that were issued at that Auction. [This Auction was identified under the first Criterion too];
- (14) The Auction held on 28<sup>th</sup> September 2015 at which Treasury Bonds bearing ISIN LKB00619I155 were offered and Acuity Securities Ltd obtained 50% of the Treasury Bonds that were issued at that Auction;
- (15) The Auction held on 28<sup>th</sup> September 2015 at which Treasury Bonds bearing ISIN LKB00821H019 were offered and Acuity Securities Ltd obtained 47% of the Treasury Bonds that were issued at that Auction;
- (16) The Auction held on 30<sup>th</sup> October 2015 at which Treasury Bonds bearing ISIN LKB01530E152 were offered and Pan Asia Banking Corporation PLC obtained 45% of the Treasury Bonds that were issued at that Auction;
- (17) The Auction held on 28<sup>th</sup> January 2016 at which Treasury Bonds bearing ISIN LKB01226F014 were offered and Wealth Trust Securities Ltd obtained 35% of the Treasury Bonds that were issued at that Auction;
- (18) The Auction held on 05<sup>th</sup> February 2016 at which Treasury Bonds bearing ISIN LKB02541A016 were offered and Perpetual Treasuries Ltd obtained 61% of the Treasury Bonds that were issued at that Auction;
- (19) The Auction held on 29<sup>th</sup> February 2016 at which Treasury Bonds bearing ISIN LKB01518B013 were offered and HSBC obtained 94% of the Treasury Bonds that were issued at that Auction;
- (20) The Auction held on 17<sup>th</sup> March 2016 at which Treasury Bonds bearing ISIN LKB00520E014 were offered and Acuity Securities Ltd obtained 35% of the Treasury Bonds that were issued at that Auction;

- (21) The Auction held on 29<sup>th</sup> March 2016 at which Treasury Bonds bearing ISIN LKB01025C157 were offered and Perpetual Treasuries Ltd obtained 39% of the Treasury Bonds that were issued at that Auction;
- (22) The Auction held on 29<sup>th</sup> March 2016 at which Treasury Bonds bearing ISIN LKB01226F014 were offered and Perpetual Treasuries Ltd obtained 45% of the Treasury Bonds that were issued at that Auction;
- (23) The Auction held on 29<sup>th</sup> March 2016 at which Treasury Bonds bearing ISIN LKB01530E152 were offered and Perpetual Treasuries Ltd obtained 36% of the Treasury Bonds that were issued at that Auction;
- (24) The Auction held on 31<sup>st</sup> March 2016 at which Treasury Bonds bearing ISIN LKB00821H019 were offered and Acuity Securities Ltd obtained 53% of the Treasury Bonds that were issued at that Auction;
- (25) The Auction held on 31<sup>st</sup> March 2016 at which Treasury Bonds bearing ISIN LKB01528I017 were offered and Perpetual Treasuries Ltd obtained 69% of the Treasury Bonds that were issued at that Auction;

Thus, on an application of the first criterion and second criterion formulated earlier, we have identified the aforesaid 25 Auctions held during the period of our Mandate, which we should examine further. [*nb*: Auctions (1) and (2) identified under the first criterion are *again* identified as requiring further examination as they are Auctions (1) and (13) identified on an application of the second criterion. Therefore, the actual number of Auctions which have been identified as requiring further examination is 28.]

When carrying out a further examination of the Auctions identified above, we will apply the following Tests to determine whether any of those Auctions should be more closely scrutinized to ascertain whether there has been an unusual feature or irregularity or impropriety in an Auction:

- (A) Is there evidence before us which suggests that, there were actions taken by the CBSL or by any other party, prior to the Auction, which influenced the Auction ?
- (B) Is there evidence before us which suggests that, one or more of the Primary Dealers had “inside information” [or “price sensitive information”] which was material to the Auction ?

- (C) Is there evidence before us of the occurrence of an unusual event or feature during the conduct of the Auction ?
- (D) Is there any manifestly unusual feature in the pattern of Bids placed at the Auction which give rise to a suspicion that a Primary Dealer had “inside information” material to the Auction or that there was some other impropriety related to the Auction ?
- (E) Is there any unusual feature in the decision making process at the Auction, as evidenced from the Option Sheet by which the PDD made its recommendation to the Tender Board and the deliberations and decision of the Tender Board set out in the Minutes of the Tender Board or the testimony of the witnesses ?
- (F) Are the Yield Rates at which Bids were accepted at the Auction unnecessarily or unreasonably high in the circumstances then prevailing in the Market and the amount of Public Debt which was to be raised by that Auction as set out in the related Monthly Borrowing Programme ?
- (G) Soon after the Auction, have there been unusual Transactions in the Secondary Market upon the Treasury Bonds which were issued at the Auction which give rise to a suspicion that there was an irregularity in the manner in which any one or more of the Primary Dealers and/or the EPF carried out Transactions in the Secondary Market upon those Treasury Bonds ?

When applying Tests (A), (B), (C) and (G), we will consider the evidence of the witnesses who testified before us and the documents produced in evidence.

When applying Test (D), we will examine the Bid Sheets relating to each Auction which identify, in detail, each of the Bids placed by Primary Dealers and the EPF at the Auction. These Bid Sheets state, *inter alia*, the name of the Bidder, the time the Bid was placed, the amount of the Bid, the Yield Rate and the Amount Payable if the Bid is accepted. We will also examine the documents prepared by the PDD which set out the cumulative value of the Bids placed by each Primary Dealer and the EPF at the Auction, the Value of the Bids that were accepted and the value of the Bids that were rejected and other relevant documents which identify the manner in which each Primary Dealer and the EPF placed Bids at the Auction and their level of success. We will also look at the relevant evidence of the witnesses.

When applying Test (E), we will, in the main, consider the Option Sheets prepared by the PDD to make their recommendation to the Tender Board at each Auction and the Minutes of the Meetings of the Tender Board held in respect of each Auction. These Documents relating to every Auction held during the period of our Mandate have been



produced in evidence and have been examined by us. We will also consider relevant testimony of the witnesses.

When examining these documents and the testimony of the witnesses, we will ascertain whether there has been any significant disparity between the recommendation of the PDD and the decision of the Tender Board. In the instances where there has been a significant disparity, we will examine the reasons set out by the Tender Board for taking a different view from the recommendations of the PDD when the Tender Board reached its decision. We will also ascertain whether there has been any significant disagreement within the Tender Board with regard to the ultimate decision of the Tender Board which resulted in the acceptance of Bids at the Auction. Finally, we will also ascertain whether Mr. Mahendran, as the Governor, has approved the decision of the Tender Board or varied that decision.

When we engage in this exercise, we will, as stated earlier, be mindful that the officers of the PDD, the members of the Tender Board and the Governor of the CBSL are possessed of specialized knowledge and experience and have the authority and discretion to make decisions with regard to the acceptance of Bids at an Auction. As stated earlier, we do not possess that knowledge or skills and we shall refrain from venturing to make 'technical' judgments on the decisions taken by these officers unless those decisions are manifestly perverse or are shown to have been made for improper reasons. As stated earlier, it is not for us to try to 'second guess' those decisions.

When applying Test (F), we will consider the demand made by the funding requirement which had to be met by the Auction, the pattern of the Yield Rates at which Bids were placed at the Auction, the prevailing Yield Rates in the Secondary Market and the trend of the Yield Curve, as evidenced by the Option Sheets prepared by the PDD, the Minutes of the Meetings of the Tender Board, the information with regard to Secondary Market Yield Rates and Weekly Statistics which were produced, the other relevant documents and the testimony of witnesses.

Here too, we are mindful of the principles outlined with regard to the manner in which we approach Test (E).

When applying Test (G), we will consider the documentary evidence before us which establishes the Transactions in the Secondary Market, the other documentary evidence before us, the Audio Recordings produced in evidence and the relevant testimony of the witnesses.

We have set out, in the form of a Table, the results we arrive at when we applied the aforesaid Tests (A) to (G) to each of the Auctions listed above.

This Table is attached as **ANNEX II**, to this Chapter.

We consider it necessary to closely examine any of the aforesaid Auctions in which, our application of the aforesaid Tests (A) to (G), yield *any* affirmative result, as set out in this Table.

On an application of the aforesaid Tests (A), (B), (C), (D), (E), (F) and (G) to each of the Auctions which were identified above upon an application of the two criteria formulated by us, we have concluded that, as shown in the aforesaid Table at **ANNEX II** to this Chapter, the following 10 Auctions require scrutiny because these 10 Auctions yield one or more affirmative results, when the aforesaid Tests (A) to (G) were applied to that Auction:

- (i) The Auction held on 27<sup>th</sup> February 2015 at which Treasury Bonds bearing ISIN LKB03045C013 to the value of Rs. 1 billion were offered and Bids to the value of Rs.10.058 billion were accepted and *also* Perpetual Treasuries Ltd obtained 50% of the Treasury Bonds issued at that Auction; [This Auction was identified under *both* the first criterion and the second criterion and, therefore, appears *twice* in the Table at **ANNEX II**];
- (ii) The Auction held on 08<sup>th</sup> September 2015 at which Treasury Bonds bearing ISIN LKB10123I019 were offered and Perpetual Treasuries Ltd obtained 45% of the Treasury Bonds that were issued at that Auction and after the Auction, there have there been unusual Transactions in the Secondary Market;
- (iii) The Auction held on 15<sup>th</sup> September 2015 at which Treasury Bonds bearing ISIN LKB00922J011 were offered and Perpetual Treasuries Ltd obtained 37% of the Treasury Bonds that were issued at that Auction and after the Auction there have been unusual transaction in the Secondary Market;
- (iv) The Auction held on 30<sup>th</sup> October 2015 at which Treasury Bonds bearing ISIN LKB01530E152 were offered and Pan Asia Banking Corporation PLC obtained 45% of the Treasury Bonds that were issued at that Auction and after the Auction there have been unusual transactions in the Secondary Market;
- (v) The Auction held on 05<sup>th</sup> February 2016 at which Treasury Bonds bearing ISIN LKB02541A016 were offered and Perpetual Treasuries Ltd obtained 61% of the Treasury Bonds that were issued at that Auction and after the Auction there have been unusual transactions in the Secondary Market;
- (vi) The Auction held on 29<sup>th</sup> March 2016 at which Treasury Bonds bearing ISIN LKB01025C157 were offered and Perpetual Treasuries Ltd obtained 39% of the Treasury Bonds that were issued at that Auction;

- (vii) The Auction held on 29<sup>th</sup> March 2016 at which Treasury Bonds bearing ISIN LKB01226F014 were offered and Perpetual Treasuries Ltd obtained 45% of the Treasury Bonds that were issued at that Auction;
- (viii) The Auction held on 29<sup>th</sup> March 2016 at which Treasury Bonds bearing ISIN LKB01530E152 were offered and Perpetual Treasuries Ltd obtained 36% of the Treasury Bonds that were issued at that Auction;
- (ix) The Auction held on 31<sup>st</sup> March 2016 at which Treasury Bonds bearing ISIN LKB00821H019 were offered and Acuity Securities Ltd obtained 53% of the Treasury Bonds that were issued at that Auction;
- (x) The Auction held on 31<sup>st</sup> March 2016 at which Treasury Bonds bearing ISIN LKB01528I017 were offered and Perpetual Treasuries Ltd obtained 69% of the Treasury Bonds that were issued at that Auction.

We will do so in the following Sections of this Chapter.

When doing so, we will, for purposes of convenience and clarity: first, consider the Auction held 27<sup>th</sup> February 2015; secondly, we will consider the Auctions held on 08<sup>th</sup> September 2015, 15<sup>th</sup> September 2015 and 30<sup>th</sup> October 2015 [*ie*: (ii), (iii) and (iv) above] together; thirdly, will consider the Auction held on 05<sup>th</sup> February 2016 [*ie*: (v) above]; fourthly, we will consider the Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016 together [*ie*: (vi), (vii), (viii) and (ix) above].

Before concluding this Chapter, we will, for purposes of completeness, set out the Direct Placements that were made during the period of our Mandate.

As mentioned earlier, the PDD had accepted several Direct Placements from Primary Dealers in February 2015 prior to 27<sup>th</sup> February 2015 - *ie*: prior to the practice of the PDD accepting Direct Placements ceasing on that date.

However, in March 2015, the PDD accepted Direct Placements amounting to Rs. 13 billion from Bank of Ceylon to meet a specific request made by the Department of Treasury Operations for funding to meet the urgent requirements of the National Water Supply and Drainage Board.

In December 2015, the PDD accepted Direct Placements amounting to Rs. 50 billion from Bank of Ceylon to meet a specific request made by the Department of Treasury Operations for funding to meet the urgent requirements of the Sri Lanka Army, the Sri Lanka Navy, the Ceylon Petroleum Corporation and the Secretary to the President.

**ANNEX I**

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTION HELD ON 27<sup>TH</sup> FEBRUARY 2015</u></b>									
LKB003045C013	30 Years	12.50%	<b>1 billion</b>	20.708 billion	2.608 billion/ 10.058 billion	<b>10.058 billion</b>	11.73%	+1005.8%	Perpetual Treasuries Ltd. (50%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 10<sup>TH</sup> MARCH 2015</u></b>									
LKB00922G017	07 Years 04 Months	11.20%	<b>10 billion</b>	45.895 billion	20.140 billion	<b>18.240 billion</b>	9.17%	+182.40%	-
LKB01025C157	10 Years	10.25%	<b>10 billion</b>	38.607 billion	13.407 billion	<b>15.707 billion</b>	10.09%	+157.07%	-

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB02035C155	20 Years	11.50%	<b>10 billion</b>	41.340 billion	17.890 billion	<b>17.890 billion</b>	11.20%	+178.90%	EPF (56%)
<b><u>TREASURY BOND AUCTIONS HELD ON 12<sup>TH</sup> MARCH 2015</u></b>									
LKB00618F013	03 Years 02 Months	8.50%	<b>10 billion</b>	34.343 billion	22.943 billion	<b>22.943 billion</b>	8.70%	+229.43%	-



ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01023I019	08 Years 05 Months	11.20%	<b>10 billion</b>	27.890 billion	14.462 billion	<b>14.462 billion</b>	9.79%	+144.62%	-
<b><u>TREASURY BOND AUCTIONS HELD ON 17<sup>TH</sup> MARCH 2015</u></b>									
LKB00619I155	04 Years 06 months	10.60%	<b>7 billion</b>	24.763 billion	9.846 billion	<b>9.846 billion</b>	9.13%	+140.66%	Acuity Securities Ltd. (41%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB00821H019	06 Years 04 Months	11.00%	<b>7 billion</b>	21.206 billion	7.858 billion	<b>7.858 billion</b>	9.55%	+112.26%	Acuity Securities Ltd. (39%)
<b><u>TREASURY BOND AUCTIONS HELD ON 26<sup>TH</sup> MARCH 2015</u></b>									
LKB006191155	04 Years 06 Months	10.6%	<b>10 billion</b>	40.620 billion	16.745 billion	<b>19.245 billion</b>	8.92%	+192.45%	-

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB010231019	08 Years 05 Months	11.20%	<b>20 billion</b>	74.60 billion	20.100 billion	<b>20.10 billion</b>	9.73%	+100.5%	-
<b><u>TREASURY BOND AUCTIONS HELD ON 30<sup>TH</sup> MARCH 2015</u></b>									
LKB00820F015	05 Years 02 Months	8.00%	<b>5 billion</b>	22.760 billion	5.265 billion	<b>5.265 billion</b>	9.07%	+105.3%	EPF (57%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01025C157	10 Years	10.25%	20 billion	48.048 billion	20.103 billion	20.103 billion	10.03%	+100.52%	EPF (85%)
<b><u>TREASURY BOND AUCTIONS HELD ON 07<sup>TH</sup> APRIL 2015</u></b>									
LKB00417E153	02 Years 02 Months	08.75%	12.500 billion	32.756 billion	12.441 billion	12.441 billion	8.14%	(-) 0.47%	-

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB00821H019	06 Years 04 Months	11.00%	<b>7.5 billion</b>	27.40 billion	7.600 billion	<b>7.60 billion</b>	9.40%	+101.33%	EPF (39%)
<b><u>TREASURY BOND AUCTION HELD ON 16<sup>TH</sup> APRIL 2015</u></b>									
LKB00619G019	04 Years 02 Months	10.60%	<b>5 billion</b>	26.80 billion	4.600 billion	-	-	-	-

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 21<sup>ST</sup> APRIL 2015</u></b>									
LKB00618F013	03 Years 01 Month	08.50%	<b>3 billion</b>	21.860 billion	<b>4.560 billion</b>	<b>4.560 billion</b>	8.15%	+152%	First Capital Treasuries Ltd. (44%)
LKB00922G017	07 Years 02 Months	11.20%	<b>3 billion</b>	21.585 billion	1.100 billion	-	-	-	-



ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 29<sup>TH</sup> APRIL 2015</u></b>									
LKB00618F013	03 Years 01 Month	08.50%	<b>10 billion</b>	38.755 billion	15.205 billion	<b>15.205 billion</b>	7.96%	+152.05%	-
LKB01025C157	09 Years 11 Months	10.25%	<b>10 billion</b>	32.369 billion	4.500 billion	<b>4.500 billion</b>	8.98%	(-) 55%	-

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 05<sup>TH</sup> MAY 2015</u></b>									
LKB01518B013	02 Years 09 Months	08.50%	<b>5 billion</b>	17.300 billion	3.100 billion	-	-	-	-
LKB00520E014	05 Years	9.25%	<b>5 billion</b>	16.970 billion	2.000 billion	<b>5.750</b> billion	8.46%	+115%	EPF (87%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 12<sup>TH</sup> MAY 2015</u></b>									
LKB00619G019	04 Years 01 Month	10.60%	<b>5 billion</b>	19.600 billion	6.500 billion	<b>6.50 billion</b>	8.15%	+130%	People's Bank (55%)
LKB00821H019	06 Years 02 Months	11.00%	<b>5 billion</b>	19.375 billion	3.060 billion	-	-	-	-

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 19<sup>TH</sup> MAY 2015</u></b>									
LKB00922J011	07 Years 04 Months	10.00%	<b>2 billion</b>	11.540 billion	0	-	-	-	-
LKB01025C157	09 Years 10 Months	10.25%	<b>2 billion</b>	14.670 billion	3.290 billion	<b>3.290 billion</b>	9.01%	+164.5%	-

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 28<sup>TH</sup> MAY 2015</u></b>									
LKB00520E014	04 Years 11 Months	9.25%	<b>3 billion</b>	11.210 billion	1.910 billion	<b>1.910 billion</b>	8.35%	(-) 36.33%	People's Bank (37%)
LKB01023I019	08 Years 03 Months	11.20%	<b>7 billion</b>	27.880 billion	7.830 billion	<b>7.830 billion</b>	8.78%	+111.86%	EPF (38%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01530E152	14 Years 11 Months	11.00%	<b>10 billion</b>	33.330 billion	10.450 billion	<b>10.450 billion</b>	9.67%	+104.50%	EPF (67%)



ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 09<sup>TH</sup> JUNE 2015</u></b>									
LKB00520E014	04 Years 10 Months	9.25%	<b>9 billion</b>	27.350 billion	16.500 billion	<b>16.50 billion</b>	8.11%	+183.33%	-
LKB00922J011	07 Years 03 Months	10.00%	<b>9 billion</b>	30.100 billion	16.100 billion	<b>16.100 billion</b>	8.56%	+178.89%	People's Bank (78%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01025C157	09 Years 09 Months	10.25%	<b>9 billion</b>	27.330 billion	0	-	-	-	-
<b><u>TREASURY BOND AUCTIONS HELD ON 12<sup>TH</sup> JUNE 2015</u></b>									
LKB00520E014	04 Years 10 Months	9.25%	<b>2 billion</b>	8.100 billion	0	-	-	-	-

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB00922J011	07 Years 03 Months	10.00%	<b>3 billion</b>	15.700 billion	5.350 billion	<b>5.350 billion</b>	8.56%	+178.33%	People's Bank (54%) EPF (37%)
LKB01025C157	09 Years 09 Months	10.25%	<b>7 billion</b>	23.150 billion	8.450 billion	<b>9.650 billion</b>	8.89%	+137.86%	EPF (41%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 23<sup>RD</sup> JUNE 2015</u></b>									
LKB00517F157	02 Years	8.00%	1 billion	6.100 billion	1.500 billion	1.500 billion	6.70%	+150%	NSB Fund Management Company Ltd. (47%) People's Bank (40%)
LKB00718K151	03 Years 05 Months	8.00%	1 billion	6.100 billion	3.500 billion	1.500 billion	7.18%	+150%	People's Bank (47%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 29<sup>TH</sup> JUNE 2015</u></b>									
LKB00820F015	04 Years 11 Months	8.00%	<b>10 billion</b>	17.200 billion	3.700 billion	<b>3.700 billion</b>	8.16%	(-) 63%	NSB Fund Management Company Ltd. (38%)
LKB01022A018	06 Years 06 Months	8.00%	<b>10 billion</b>	29.580 billion	13.300 billion	<b>13.300 billion</b>	8.67%	+133%	EPF (75%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB011231017	08 Years 02 Months	9.00%	<b>10 billion</b>	32.370 billion	15.300 billion	<b>15.300 billion</b>	8.82%	+153%	EPF (78%)
<b><u>TREASURY BOND AUCTIONS HELD ON 02<sup>ND</sup> JULY 2015</u></b>									
LKB00520E014	04 Years 10 Months	9.25%	<b>5 billion</b>	8.700 billion	1.000 billion	<b>1 billion</b>	8.20%	(-) 80%	NSB Fund Management Company Ltd. (50%) People's Bank (50%)



ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB00922J011	07 Years 03 Months	10.00%	<b>5 billion</b>	9.250 billion	1.000 billion	<b>1 billion</b>	8.57%	(-) 80%	NSB Fund Management Company Ltd. (50%)  People's Bank (50%)
<b><u>TREASURY BOND AUCTIONS HELD ON 09<sup>TH</sup> JULY 2015</u></b>									
LKB00520E014	04 Years 09 Months	9.25%	<b>15 billion</b>	28.850 billion	11.500 billion	<b>11.500 billion</b>	8.39%	(-) 23.33%	Bank of Ceylon (44%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB00721J157	06 Years 03 Months	9.45%	<b>10 billion</b>	17.365 billion	7.615 billion	<b>7.615 billion</b>	9.08%	(-) 23.85%	-
LKB00922J011	07 Years 02 Months	10.00%	<b>15 billion</b>	27.800 billion	12.100 billion	<b>12.100 billion</b>	9.14%	(-) 19.33%	-

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 14<sup>TH</sup> JULY 2015</u></b>									
LKB00418J150	03 Years 03 Months	8.75%	10 billion	21.820 billion	4.670 billion	4.670 billion	8.18%	(-) 53.37%	Commercial Bank of Ceylon Ltd. (37%)
LKB01023I019	08 Years 01 Month	11.20%	10 billion	29.150 billion	8.750 billion	11.050 billion	9.58%	+110.5%	EPF (45%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAY (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 27<sup>TH</sup> JULY 2015</u></b>									
LKB00619G019	03 Years 11 Months	10.60%	<b>12.500</b> billion	49.665 billion	27.630 billion	<b>27.630</b> billion	8.19%	+221.04%	HSBC (72%)
LKB00821H019	06 Years	11.00%	<b>12.500</b> billion	47.420 billion	23.010 billion	<b>23.010</b> billion	8.87%	+184.08%	HSBC (65%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01025H016	10 Years	11.00%	<b>15 billion</b>	59.710 billion	0	-	-	-	-
<b><u>TREASURY BOND AUCTIONS HELD ON 04<sup>TH</sup> AUGUST 2015</u></b>									
LKB00619G019	03 Years 11 Months	10.60%	<b>5 billion</b>	20.400 billion	0	-	-	-	-

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB00821H019	06 Years	11.00%	<b>5 billion</b>	28.835 billion	11.405 billion	<b>11.405 billion</b>	9.07%	+228.1%	EPF (44%)
LKB01025H016	10 Years	11.00%	<b>10 billion</b>	56.680 billion	14.340 billion	<b>14.340 billion</b>	9.63%	+143.4%	EPF (77%)



ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 11<sup>TH</sup> AUGUST 2015</u></b>									
LKB00520E014	04 Years 08 Months	9.25%	<b>3 billion</b>	22.273 billion	5.023 billion	6.273 billion	8.38%	+209.1%	HSBC (54%)
LKB01025H016	10 Years	11.00%	<b>5 billion</b>	32.918 billion	6.660 billion	6.660 billion	9.67%	+133.2%	EPF (45%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 25<sup>TH</sup> AUGUST 2015</u></b>									
LKB00819K017	04 Years 02 Months	8.00%	<b>5 billion</b>	12.508 billion	0	-	-	-	-
LKB010231019	08 Years	11.20%	<b>10 billion</b>	30.452 billion	10.294 billion	10.294 billion	9.76%	+102.94%	EPF (49%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01025H016	09 Years 11 Months	11.00%	<b>12.500</b> <b>billion</b>	43.996 billion	20.288 billion	20.288 billion	9.97%	+162.3%	EPF (74%)
LKB01530E152	14 Years 08 Months	11.00%	<b>12.500</b> <b>billion</b>	40.220 billion	0	-	-	-	-

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 31<sup>ST</sup> AUGUST 2015</u></b>									
LKB00520E014	04 Years 08 Months	9.25%	<b>5 billion</b>	14.268 billion	5.500 billion	5.500 billion	9.35%	+110%	-
LKB00821H019	05 Years 11 Months	11.00%	<b>12.500 billion</b>	25.190 billion	1.755 billion	1.755 billion	9.71%	(-) 85.96%	-

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01226F014	10 Years 09 Months	11.00%	<b>12.500 billion</b>	39.937 billion	24.063 billion	24.063 billion	10.34%	+192.5%	EPF (66%)
<b><u>TREASURY BOND AUCTIONS HELD ON 08<sup>TH</sup> SEPTEMBER 2015</u></b>									
LKB00520E014	04 Years 08 Months	9.25%	<b>2 billion</b>	14.110 billion	3.735 billion	3.735 billion	9.65%	+186.75%	Acuity Securities Ltd. (59%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01023I019	08 Years	11.20%	<b>2 billion</b>	14.060 billion	2.520 billion	4.470 billion	10.25%	+223.5%	Perpetual Treasuries Ltd (45%)
LKB 01226F014	10 Years 09 Months	11.00%	<b>3 billion</b>	14.769 billion	1.833 billion	-	-	-	-
LKB01530E152	14 Years 08 Months	11.00%	<b>3 billion</b>	17.401 billion	6.627 billion	7.427 billion	10.96%	+247.57%	EPF (40%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAY (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 15<sup>TH</sup> SEPTEMBER 2015</u></b>									
LKB00520E014	04 Years 07 Months	9.25%	<b>3 billion</b>	20.003 billion	3.100 billion	3.100 billion	9.58%	+103.33%	-
LKB00922J011	07 Years	10.00%	<b>5 billion</b>	19.773 billion	9.559 billion	9.559 billion	9.95%	+191.18%	Perpetual Treasuries Ltd (37%)



ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01025H016	09 Years 10 Months	11.00%	<b>5 billion</b>	15.582 billion	5.241 billion	5.241 billion	10.38%	+104.82%	Wealth Trust Securities Ltd (39%)
LKB01528I017	12 Years 11 Months	11.50%	<b>3 billion</b>	17.779 billion	8.684 billion	10.884 billion	10.88%	+362.8%	Wealth Trust Securities Ltd (39%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 28<sup>TH</sup> SEPTEMBER 2015</u></b>									
LKB00619I155	03 Years 11 Months	10.60%	<b>2 billion</b>	14.610 billion	5.700 billion	3.00 billion	9.50%	+150%	Acuity Securities Ltd (50%)  NSB Fund Management Company Ltd. (50%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB00821H019	05 Years 10 Months	11.00%	<b>3 billion</b>	15.060 billion	6.500 billion	6.500 billion	9.90%	+216.67%	Acuity Securities Ltd (47%)
LKB01024A014	08 Years 03 Months	11.40%	<b>4 billion</b>	15.593 billion	0	-	-	-	-

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB015281017	12 Years 11 Months	11.50%	<b>4 billion</b>	18.965 billion	3.660 billion	3.660 billion	11.04%	(-) 8.5%	-
<b><u>TREASURY BOND AUCTIONS HELD ON 26<sup>TH</sup> OCTOBER 2015</u></b>									
LKB006191155	03 Years 10 Months	10.60%	<b>7 billion</b>	32.562 billion	8.000 billion	8.00 billion	9.14%	+114.29%	NSB Fund Management Company Ltd (100%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB00922J011	06 Years 11 Months	10.00%	<b>7 billion</b>	32.611 billion	6.222 billion	6.222 billion	9.65%	(-) 11.11%	-
LKB01528I017	12 Years 10 Months	11.50%	<b>6 billion</b>	27.247 billion	8.880 billion	8.880 billion	10.39%	+148%	-
LKB02035C155	19 Years 04 Months	11.50%	<b>10 billion</b>	37.295 billion	22.340 billion	22.340 billion	11.13%	+223.4%	EPF (45%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 30<sup>TH</sup> OCTOBER 2015</u></b>									
LKB00520E014	04 Years 06 Months	9.25%	<b>3 billion</b>	30.473 billion	4.938 billion	3.669 billion	8.99%	+122.3%	-
LKB01024A014	08 Years 02 Months	11.40%	<b>3 billion</b>	13.735 billion	0	-	-	-	-

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01530E152	14 Years 06 Months	11.00%	<b>3 billion</b>	28.060 billion	6.700 billion	6.700 billion	10.33%	+223.33%	Pan Asia Banking Corporation Ltd. (45%)
<b><u>TREASURY BOND AUCTIONS HELD ON 27<sup>TH</sup> NOVEMBER 2015</u></b>									
LKB00520E014	04 Years 05 Months	9.25%	<b>2 billion</b>	17.877 billion	1.244 billion	1.244 billion	8.91%	(-) 37.8%	NSB Fund Management Company Ltd (80%)



ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01226F014	10 Years 06 Months	11.00%	<b>3 billion</b>	17.567 billion	0.5 billion	500 million	9.35%	(-) 83.33%	NSB Fund Management Company Ltd (100%)
LKB02035C155	19 Years 03 Months	11.50%	<b>7 billion</b>	36.400 billion	18.850 billion	18.850 billion	10.50%	+269.29%	EPF (37%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 15<sup>TH</sup> DECEMBER 2015</u></b>									
LKB00520L159	05 Years	9.50%	<b>2 billion</b>	12.614 billion	0.1 billion	-	-	-	-
LKB01025H016	09 Years 07 Months	11.00%	<b>3 billion</b>	12.075 billion	0	3.00 billion	10.36%	-	-

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB02035C155	19 Years 03 Months	11.50%	<b>5 billion</b>	27.975 billion	12.555 billion	12.555 billion	10.86%	+251.1%	EPF (40%)
<b><u>TREASURY BOND AUCTIONS HELD ON 18<sup>TH</sup> DECEMBER 2015</u></b>									
LKB00520L159	05 Years	9.50%	<b>3 billion</b>	10.050 billion	1.300 billion	1.300 billion	9.56%	(-) 56.66%	NSB Fund Management Company Ltd (85%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01530E152	14 Years 05 Months	11.00%	<b>3 billion</b>	10.010 billion	2.860 billion	2.860 billion	11.00%	(-) 4.66%	NSB Fund Management Company Ltd (38%)
LKB02035C155	19 Years 03 Months	11.50%	<b>6 billion</b>	15.430 billion	2.930 billion	2.930 billion	11.45%	(-) 51.16%	NSB Fund Management Company Ltd (44%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 23<sup>RD</sup> DECEMBER 2015</u></b>									
LKB00520L159	05 Years	9.50%	<b>2 billion</b>	7.650 billion	2.150 billion	2.150 billion	9.79%	+107.5%	NSB Fund Management Company Ltd (53%)
LKB010231019	07 Years 09 Months	11.20%	<b>3 billion</b>	10.990 billion	3.140 billion	3.140 billion	10.82%	+104.67%	-

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01025H016	09 Years 07 Months	11.00%	<b>5 billion</b>	14.215 billion	1.610 billion	1.610 billion	10.94%	(-) 67.8%	-
<b><u>TREASURY BOND AUCTIONS HELD ON 29<sup>TH</sup> DECEMBER 2015</u></b>									
LKB00819K017	03 Years 10 Months	8.00%	<b>3 billion</b>	8.700 billion	0	-	-	-	-

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB00721J157	05 Years 10 Months	9.45%	<b>5 billion</b>	11.950 billion	0	-	-	-	-
LKB01528I017	12 Years 08 Months	11.50%	<b>5 billion</b>	12.405 billion	0	-	-	-	-



ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 8<sup>TH</sup> JANUARY 2016</u></b>									
LKB00520L159	04 Years 11 Months	9.50%	<b>2 billion</b>	14.830 billion	0	-	-	-	-
LKB01025H016	09 Years 07 Months	11.00%	<b>5 billion</b>	23.379 billion	6.059 billion	6.059 billion	11.05%	+121.18%	-

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01530E152	14 Years 04 Months	11.00%	<b>5 billion</b>	24.285 billion	13.585 billion	13.585 billion	11.46%	+271.7%	EPF (37%)
LKB02541A016	25 Years	12.00%	<b>8 billion</b>	41.975 billion	19.635 billion	19.635 billion	12.09%	+245.44%	EPF (51%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 28<sup>TH</sup> JANUARY 2016</u></b>									
LKB00520L159	04 Years 10 Months	9.50%	<b>2 billion</b>	13.275 billion	0	-	-	-	-
LKB01226F014	10 Years 04 Months	11.00%	<b>3 billion</b>	19.030 billion	5.380 billion	6.190 billion	11.14%	+206.33%	Wealth Trust Securities Ltd (35%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01530E152	14 Years 03 Months	11.00%	<b>5 billion</b>	27.150 billion	10.540 billion	15.650 billion	11.53%	+313%	-
LKB03045C013	29 Years 01 Month	12.50%	<b>5 billion</b>	44.840 billion	5.800 billion	-	-	-	-

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 05<sup>TH</sup> FEBRUARY 2016</u></b>									
LKB00520L159	04 Years 10 Months	9.50%	<b>2 billion</b>	11.972 billion	0	-	-	-	-
LKB01530E152	14 Years 03 Months	11.00%	<b>3 billion</b>	42.865 billion	10.455 billion	10.455 billion	11.66%	+348.5%	-

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB02541A016	24 Years 11 Months	12.00%	<b>5 billion</b>	48.080 billion	10.250 billion	10.250 billion	12.15%	+205%	Perpetual Treasuries Ltd (61%)
<b><u>TREASURY BOND AUCTIONS HELD ON 29<sup>TH</sup> FEBRUARY 2016</u></b>									
LKB01518B013	01 Year 11 Months	8.50%	<b>3 billion</b>	15.760 billion	5.305 billion	5.305 billion	10.00%	+176.83%	HSBC (94%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB00821H019	05 Years 05 Months	11.00%	<b>3 billion</b>	12.277 billion	5.312 billion	5.312 billion	11.42%	+177.07%	EPF (75%)
LKB01023I019	07 Years 06 Months	11.20%	<b>3 billion</b>	18.750 billion	7.637 billion	7.637 billion	11.78%	+254.57%	EPF (65%)



ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 10<sup>TH</sup> MARCH 2016</u></b>									
LKB00819K017	03 Years 08 Months	8.00%	<b>2 billion</b>	6.514 billion	0.814 billion	-	-	-	-
LKB00821H019	05 Years 05 Months	11.00%	<b>2 billion</b>	7.040 billion	0.955 billion	-	-	-	-

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01024A014	07 Years 10 Months	11.40%	<b>2 billion</b>	9.535 billion	3.120 billion	-	-	-	-
<b><u>TREASURY BOND AUCTIONS HELD ON 17<sup>TH</sup> MARCH 2016</u></b>									
LKB00517F157	01 Year 03 Months	8.00%	<b>1 billion</b>	8.300 billion	0	-	-	-	-

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB00520E014	04 Years 01 Month	9.25%	<b>1 billion</b>	6.805 billion	1.305 billion	1.305 billion	11.87%	+130.5%	NSB Fund Management Company Ltd (46%)  Acuity Securities Ltd (35%)
LKB01024A014	07 Years 09 Months	11.40%	<b>2 billion</b>	13.030 billion	6.620 billion	6.620 billion	12.26%	+331%	EPF (60%)

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 24<sup>TH</sup> MARCH 2016</u></b>									
LKB00520E014	04 Years 01 Month	9.25%	<b>5 billion</b>	13.628 billion	2.578 billion	-	-	-	-
LKB00721J157	05 Years 06 Months	9.45%	<b>5 billion</b>	17.500 billion	4.140 billion	-	-	-	-

ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB00922J011	06 Years 11 Months	10.00%	<b>5 billion</b>	13.520 billion	1.805 billion	-	-	-	-
LKB01025C157	08 Years 11 Months	10.25%	<b>5 billion</b>	33.150 billion	4.400 billion	-	-	-	-

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 29<sup>TH</sup> MARCH 2016</u></b>									
LKB00520E014	04 Years 01 Month	9.25%	<b>10 billion</b>	27.022 billion	10.272 billion	10.272 billion	12.78%	+102.72%	People's Bank (49%) NSB Fund Management Company Ltd (35%)
LKB01025C157	08 Years 02 Months	10.25%	<b>10 billion</b>	36.915 billion	21.475 billion	21.475 billion	13.80%	+214.75%	Perpetual Treasuries Ltd (39%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB01226F014	10 Years 02 Months	11.00%	<b>10 billion</b>	32.560 billion	17.010 billion	17.010 billion	13.93%	+170.10%	Perpetual Treasuries Ltd (45%)
LKB01530E152	14 Years 01 Month	11.00%	<b>10 billion</b>	45.925 billion	28.975 billion	28.975 billion	14.23%	+289.75%	Perpetual Treasuries Ltd (36%)



ISINs OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
<b><u>TREASURY BOND AUCTIONS HELD ON 31<sup>ST</sup> MARCH 2016</u></b>									
LKB01518B013	01 Year 10 Months	8.50%	<b>5 billion</b>	21.254 billion	9.000 billion	9.000 billion	11.75%	+180%	People's Bank (39%)
LKB00619G019	03 Years 03 Months	10.60%	<b>5 billion</b>	15.025 billion	5.000 billion	5.000 billion	11.75%	100%	People's Bank (40%) NSB Fund Management Company Ltd (50%)

ISINS OFFERED	TENOR	COUPON RATE	AMOUNT OFFERED	BIDS RECEIVED	AMOUNT RECOMMENDED BY THE PDD	AMOUNT ACCEPTED	WAYR (AFTER TAX)	AMOUNT ACCEPTED AS A PERCENTAGE OF THE AMOUNT OFFERED	NAME/S OF ANY PRIMARY DEALERS WHO OBTAINED 35% OR MORE OF THE AMOUNT ACCEPTED
LKB00821H019	05 Years 04 Months	11.00%	<b>5 billion</b>	24.175 billion	14.350 billion	14.350 billion	13.00%	+287%	Acuity Securities Ltd (53%)
LKB01528I017	12 Years 05 Months	11.50%	<b>10 billion</b>	52.605 billion	21.660 billion	21.660 billion	13.72%	+216.6%	Perpetual Treasuries Ltd (69%)

**Annex II**

<b>DATE OF AUCTION AND ISIN</b>	<b>TEST (A)</b>	<b>TEST (B)</b>	<b>TEST (C)</b>	<b>TEST (D)</b>	<b>TEST (E)</b>	<b>TEST (F)</b>	<b>TEST (G)</b>
<b>IDENTIFIED UPON THE FIRST CRITERION</b>							
27 FEB 2015 LKB03045C013	YES	YES	YES	YES	YES	YES	NO
15 SEP 2015 LKB01528I017	NO	NO	NO	NO	NO	NO	NO
28 JAN 2016 LKB01530E152	NO	NO	NO	NO	NO	NO	NO
05 FEB 2016 LKB01530E152	NO	NO	NO	NO	NO	NO	NO
17 MAR 2016 LKB01024A014	NO	NO	NO	NO	NO	NO	NO
<b>IDENTIFIED UPON THE SECOND CRITERION</b>							
27 FEB 2015 LKB03045C013	YES	YES	YES	YES	YES	YES	NO

17 MAR 2015 LKB00619I155	NO	NO	NO	NO	NO	NO	NO
17 MAR 2015 LKB00821H019	NO	NO	NO	NO	NO	NO	NO
21 APR 2015 LKB00618F013	NO	NO	NO	NO	NO	NO	NO
14 JUL 2015 LKB00418J150	NO	NO	NO	NO	NO	NO	NO
27 JUL 2015 LKB00619G019	NO	NO	NO	NO	NO	NO	NO
27 JUL 2015 LKB00821H019	NO	NO	NO	NO	NO	NO	NO
11 AUG 2015 LKB00520E014	NO	NO	NO	NO	NO	NO	NO
08 SEP 2015 LKB00520E014	NO	NO	NO	NO	NO	NO	NO

08 SEP 2015 LKB01023I019	NO	NO	NO	NO	NO	NO	YES
15 SEP 2015 LKB00922J011	NO	NO	NO	NO	NO	NO	YES
15 SEP 2015 LKB01025H016	NO	NO	NO	NO	NO	NO	NO
15 SEP 2015 LKB01528I017	NO	NO	NO	NO	NO	NO	NO
28 SEP 2015 LKB00619I155	NO	NO	NO	NO	NO	NO	NO
28 SEP 2015 LKB00821H019	NO	NO	NO	NO	NO	NO	NO
30 OCT 2015 LKB01530E152	NO	NO	NO	NO	NO	NO	YES
28 JAN 2016 LKB01226F014	NO	NO	NO	NO	NO	NO	NO

05 FEB 2016 LKB02541A016	NO	NO	NO	NO	NO	NO	YES
29 FEB 2016 LKB01518B013	NO	NO	NO	NO	NO	NO	NO
17 MAR 2016 LKB00520E014	NO	NO	NO	NO	NO	NO	NO
29 MAR 2016 LKB01025C157	YES	YES	NO	YES	NO	NO	YES
29 MAR 2016 LKB01226F014	YES	YES	NO	YES	NO	NO	YES
29 MAR 2016 LKB01530E152	YES	YES	NO	YES	NO	NO	YES
31 MAR 2016 LKB00821H019	YES	NO	NO	NO	NO	NO	YES
31 MAR 2016 LKB01528I017	YES	NO	NO	YES	NO	NO	YES

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**Section 19.2 - The Treasury Bond Auction held on 27<sup>th</sup> February 2015**

**Section 19.2.1 - The Meeting of the Monetary Board held on 23<sup>rd</sup> February 2015**

The Monetary Board met on 23<sup>rd</sup> February 2015. Mr. Mahendran chaired the meeting as the Governor. The only two members of the Monetary Board at that time, were Dr. R.H.S. Samaratinga, Secretary to the Ministry of Finance and Ms. Mano Ramanathan, an appointed member. Both of them participated in the meeting. The three Deputy Governors - namely, Mr. Ananda Silva, Dr. Nandalal Weerasinghe and Mr. Samarasiri were present.

Mr. H.A. Karunaratne, who had been newly appointed to the post of Secretary to the Monetary Board, was in attendance and wrote down his Notes of the discussions. This was the first time he had performed the function of a Secretary to the Monetary Board.

The following two aspects of this meeting held on 23<sup>rd</sup> February 2015, are relevant to our Mandate:

- (i) The discussions and any decision taken at that meeting with regard to the issue of a 30 Year Treasury Bond during the course of that week;
- (ii) The discussions and any decision taken at that meeting with regard to the Interest Rates applicable to the overnight Standing Deposit Facility;

With regard to the first aspect set out above, the evidence establishes that, Mr. Mahendran had suggested that, a 30 Year Treasury Bond be issued. The previous issue of a 30 Year Treasury Bonds had been in May 2014. The evidence also establishes that, there had been a discussion about Mr. Mahendran's proposal to issue a 30 Year Treasury Bond.

The witnesses who were present at that meeting and gave evidence before us, had different recollections with regard to the outcome of those discussions.

Mr. Samarasiri unequivocally stated that, *"..... what the Governor said we must issue 30 years bonds. "* and *"He said we must issue 30 year treasury Bonds and extend the maturity profile."*

On the other hand, Mr. H.A. Karunaratne stated that, his impression was that there had been only a discussion about the issue of a 30 Year Treasury Bond and that there had been no definite decision to issue a 30 Year Treasury Bond. Deputy Governor Silva



also took up a similar position but, it was evident to us that, Mr. Silva was somewhat uncertain about his recollection of the events of that meeting. Ms. Mano Ramanathan also first said that there had been only been a discussion about issuing a 30 Year Treasury Bond but, thereafter, admitted, under Cross Examination by Mr. Harsha Fernando, that she did not have a clear recollection about this matter. Further, when the Commission of Inquiry inquired from Ms. Ramanathan as to whether she clearly recollected these events, her answer was that, *"I have discussed with various officers"*. That answer suggests that, her testimony regarding this matter was based more on what she had been told by unnamed *"officers"* rather than her own recollection of the events of that meeting.

In these circumstances, we will rely on the documentary evidence to conclude whether or not a decision was made by the Monetary Board, on 23<sup>rd</sup> February 2015, to issue a 30 Year Treasury Bond.

In this connection, we see that, Mr. H.A. Karunaratne's handwritten Notes of the proceedings at the meeting of the Monetary Board held on 23<sup>rd</sup> February 2015 contradict the claim he made before us.

These Notes record that, Mr. Mahendran first inquired *"Should we have a T Bond auction for 30 year ? Previous G [Governor] thought of issuing US\$ 1 bn 10 year and 0.5 bn 30 year. Repayment schedule will shift up. Bunching up is not set. Hence extend duration further out."* Thereafter, Mr. Karunaratne's Notes record that, Mr. Mahendran directed that, a 30 Year Treasury Bond be issued, by stating *"Issue local 30 year bond – see the uptake."* and *"Startup locally primary bonds this week for 30 year."* When Mr. Ananda Silva had informed Mr. Mahendran that the EPF did not have funds at that time to bid at an Auction, Mr. Mahendran is recorded to have stated, *"Check with insurance co. US Treasury 10-30 year spread is very flat now and Use this opportunity now and something we should do."*

Thus, Mr. Karunaratne's handwritten Notes clearly record that, Mr. Mahendran directed that, a 30 Year Treasury Bond be issued soon. The Notes do not suggest that, any member of the Monetary Board disagreed or questioned that direction. The Notes do not suggest that, any of the three Deputy Governors who attended the meeting, advised that a 30 Year Treasury Bond should not be issued. In fact, when Deputy Governor, Weerasinghe gave evidence he said that, there was no problem about issuing a 30 year Treasury Bond at that time.

In any event, the Minutes of the meeting held on 23<sup>rd</sup> February 2015, which were adopted as correct, at the next meeting of the Monetary Board held on 06<sup>th</sup> March 2015, record that, at the meeting held on 23<sup>rd</sup> February 2015, *"The Board was of the view that issuing 30 year Treasury bonds would be favorable at this stage to extend*

*the yield curve and re-profile the debt service as there is good interest shown by foreign investors. Accordingly, the Board instructed the Superintendent of Public Debt to conduct a 30 year Treasury bond auction during the week and arrange to list sovereign bonds in Euro Clear Exchange in the future.”.*

The Minutes of the meeting of the Monetary Board held on 06<sup>th</sup> March 2015, do not record that any member of the Monetary Board disputed the accuracy of the above Minutes before the Monetary Board adopted these Minutes as correct.

Upon the aforesaid evidence and in the aforesaid circumstances, we conclude that:

- (i) After a discussion at which Mr. Mahendran asserted that a 30 Year Treasury Bond should be issued, the Monetary Board decided, at its meeting held on 23<sup>rd</sup> February 2015, that the PDD should issue a 30 Year Treasury Bond during the course of that week;
- (ii) An Auction of a 30 Year Treasury Bond had been last held in May 2014 and, it could be reasonably contended that, it was useful for the CBSL to hold another Auction offering a 30 Year Treasury Bond and, thereby, ascertain the Yield Rate at which the Market will buy a 30 Year Treasury Bond. That would help fix the long end of the Yield Curve for Treasury Bonds and equip the CBSL to better manage the raising of Public Debt during the rest of the year.

In these circumstances, Mr. Mahendran’s proposal to issue a 30 Year Treasury Bond and the Monetary Board’s decision to issue that Treasury Bond was, *ex facie*, a due exercise of the authority and discretion of the Monetary Board.

However, we would mention here, that, in the light of the subsequent events which took place on 27<sup>th</sup> February 2015 and the role Mr. Mahendran played in the conduct of the Auction held on that day, a question arises as to whether Mr. Mahendran had any personal or ulterior motive when he pressed for the issue of a 30 Year Treasury Bond at the meeting held on 23<sup>rd</sup> February 2015. In this regard, Perpetual Treasuries Ltd was known to specialize in trading in long term Treasury Bonds. Further, it has to be noted that, an Auction at which a large value of 30 Year Treasury Bonds are issued at high Yield Rates, will result in the in long end of the Yield Curve for Treasury Bonds being fixed [at least, for a period] at a relatively high level and will, thereby, give “leverage” for a person who holds such Treasury Bonds, to profitably trade upon them if and when Yield Rates decline over time. It also has to be

noted that, as Deputy Governor, Weerasinghe observed, the Yield Curve for Treasury Bonds should be set properly and prudently since it impacts on Interest Rates in the Market and the Interest Rates applied by Commercial Banks in their Banking Transactions.

With regard to the second aspect of the meeting held on 23<sup>rd</sup> February 2015 which is relevant to our Mandate, the Monetary Board considered the Monetary Policy Review which is submitted to the Monetary Board, each month, by the Monetary Policy Committee of the CBSL. This Monetary Policy Review was marked “**BC60B1 (i)**”.

By this Monetary Policy Review, the Monetary Policy Committee recommended that, which, *inter alia*, recommended that:

- (a) The system of “Two-Tier” Interest Rates of 6.5% *per annum* and 5% *per annum* which was then applied to the overnight Standing Deposit Facility offered on the “Open Market Window” of the CBSL, be removed and only a single Interest Rate of 6.5% *per annum* be paid on the overnight Standing Deposit Facility.

By way of explanation, we should state that, in pursuance of a recommendation made by the Monetary Policy Committee in September 2014, the CBSL introduced a “Two-Tier Structure” of the Interest Rates applied to the overnight Standing Deposit Facility.

This Two-Tier Structure stipulated that, any Participant in the “Open Market Window” of the CBSL would be paid an Interest Rate of 6.5% *per annum* by the CBSL on monies placed in the overnight Standing Deposit Facility, on the first three times that Participant utilised the overnight Standing Deposit Facility during a month. Thereafter, if that Participant utilised the overnight Standing Deposit Facility on any further occasion during that same month, the CBSL would pay a reduced Interest Rate of 5% *per annum* on all those further Deposits made by that Participant;

- (b) The Interest Rate of 6.5% *per annum* which was then paid on the first Tier of the overnight Standing Deposit Facility and the Interest Rate of 8% *per annum* which was then charged by the CBSL on the overnight Standing Lending Facility, both be reduced by 50 basis points each.

The Monetary Board considered this recommendation and decided, as recorded in the Minutes of the meeting held on 23<sup>rd</sup> February 2015, which were adopted as correct, at the next meeting of the Monetary Board held on 06<sup>th</sup> March 2015, that, “*The Board*

*having considered the paper and the presentation was of the view that the cut in policy rates as recommended by the Monetary Policy Committee for the purpose of rationalization of two tier Standing Deposit Rate is not appropriate at this stage, given the rising trend in market interest rates and rising growth of private sector credit and decided to maintain the policy interest rates at current level until next month's monetary policy review."*

Upon the aforesaid evidence and in the aforesaid circumstances, we conclude that:

- (i) At its meeting held on 23<sup>rd</sup> February 2015, the Monetary Board decided that, the Two-Tier Structure of Interest Rates of 6.5% *per annum* and 5% *per annum* then applied to the overnight Standing Deposit Facility and the Interest Rate of 8% *per annum* which was then offered on the overnight Standing Lending Facility, should remain unchanged until the Monetary Board considered the next month's Monetary Policy Review.

**Section 19.2.2 - The Announcement of a Treasury Bond Auction to be held on 27<sup>th</sup> February 2015**

As set out above, on 23<sup>rd</sup> February 2015, the Monetary Board decided that, an Auction be held to issue a 30 Year Treasury Bond.

Ms. Deepa Seneviratne, who was the Superintendent of Public Debt from 09<sup>th</sup> February 2015 onwards, stated that, on 24<sup>th</sup> February 2015, Deputy Governor Ananda Silva had informed her, verbally, that the Monetary Board had instructed the PDD to take immediate action to hold an Auction of a 30 Year Treasury Bond. Ms. Seneviratne said that she confirmed this instruction by inquiring from Mr. H.A. Karunaratne, the Secretary to the Monetary Board.

Deputy Governor Silva said that, on 24<sup>th</sup> February 2015, Mr. Mahendran telephoned him and "*asked me to tell SPD to quickly issue a 30-year bond.*". Mr. Silva further stated that, he communicated this instruction to Ms. Seneviratne.

In response to a question from the Commission of Inquiry, Mr. Silva said that, Mr. Mahendran did not indicate the value of the Treasury Bonds to be issued at the Auction.

We note that, the PDD received the Daily Cash Flow Statement for March 2015, on 23<sup>rd</sup> February 2015 and the PDD was, therefore, was aware, on 24<sup>th</sup> February 2015, that it had to raise a sum of Rs. 13.55 billion on 02<sup>nd</sup> March 2015.

Dr. Aazim has testified that, the PDD had initially intended to raise this sum of Rs. 13.55 billion required by 02<sup>nd</sup> March 2015, by accepting Direct Placements. Ms. Seneviratne said that, the PDD had intended to hold the meeting of the DDMC to determine the Monthly Borrowing Programme for March 2015, on 27<sup>th</sup> February 2015.

Ms. Seneviratne stated that, in these circumstances, the PDD decided to hold the Auction on 27<sup>th</sup> February 2015 and to offer Treasury Bonds to the value of Rs. 1 billion at that Auction.

When the Commission of Inquiry asked the witness, why the PDD decided to offer only a sum of Rs.1 billion at the Auction when the funding requirement on 02<sup>nd</sup> March 2015 was Rs.13.55 billion [less the sum of Rs 3.4 billion which had then been raised by two Direct Placements earlier that month], Ms Seneviratne said, *“According to our experience we know we can’t inform the exact volume to investors. When investors know that the Government requirement is really high they will bid at a higher rate then the cost will be too high to the Government, we want to minimize that cost factor.”*. She added that, the Market was accustomed to Treasury Bond Auctions with an offered amount at between Rs.1 billion to Rs. 3 billion. The witness stated that, after discussions with her senior officers, the expectation of the PDD was that, Bids to *“at least”* the value of about Rs. 5 billion would be received in response to the offered amount of Rs.1 billion.

Next, the evidence of the Officers of the PDD establish that, the Coupon Rate of 12.5% *per annum*, which the PDD decided to fix for the 30 year Treasury Bonds to be offered at the Auction to be held on 27<sup>th</sup> February 2015, was decided by the PDD.

It appears that when determining the Coupon Rate, the PDD takes into account their assessment of the appetite of the market in respect of that particular Treasury Bond, the prevailing Interest Rates and Yield Rates and the likely trend of these Rates and also the nature of the need of the Government for funding at that time.

It appears to us that there was no formal procedure which has been specified by the CBSL, to stipulate the manner in which the PDD determines the Coupon Rate of a Treasury Bond.

In response to a question from Mr. Harsha Fernando, Attorney-at-Law, Dr. Wijewardena said that, the *“Coupon rate is determined by the Central Bank by taking into account the appetite for the particular bond in question your Honour. Number two, the prevailing interest rate structure in the market, and number three, the ability of making it attractive to the prospective investors. Those three factors are taken into account and they decide on that.”* He added that the Coupon Rate is decided by the *“Domestic Debt Management Committee headed by the Superintendent of Public*

*Debt”, and is, thereafter, “presented to the Monetary Board when the Monetary Board is apprised of the issue of the bond.”.*

Thereafter, the PDD announced that an Auction would be held on 27<sup>th</sup> February 2015 offering 30 Year Treasury Bonds, to the value of Rs. 1 billion. This Notice was published on the Central Bank website, as well as in the newspapers.

We note that, by 24<sup>th</sup> February 2015, Mr. Samarasiri was the Deputy Governor under whose supervision the PDD was placed. In these circumstances a question arises as to why Mr. Mahendran chose to convey the instruction to hold an Auction to issue a 30 Treasury Bond, through Deputy Governor Silva.

However, we are aware that it is possible that Mr. Samarasiri was not available on that day or that Mr. Mahendran may have happened to meet Mr. Silva and decided that it was convenient to convey the instruction that way.

In any event, we are not disposed to read anything further into Mr. Mahendran’s decision to convey this instruction to the PDD through Mr. Silva and not through Mr. Samarasiri.

Upon the aforesaid evidence and in the aforesaid circumstances, we conclude that:

- (i) There was no irregularity in the announcement of the Treasury Bond Auction to be held on 27<sup>th</sup> February 2015.

**Section 19.2.3 - The “Breakfast Meeting” on 26<sup>th</sup> February 2015, the reasons for that meeting and the decisions taken at that meeting**

The evidence is that, in February 2015, the Ministry of Highways, Higher Education and Investment Promotion discovered that, it needed urgent funds to make payments to Contractors which were overdue in respect of Road Development Projects which had been started in the past and were underway, but for which the Treasury had failed to provide adequate funds to meet these costs.

In this connection we have examined a Letter dated 16<sup>th</sup> February 2015, issued by the Secretary, Ministry of Highways, Higher Education and Investment Promotion and addressed to the Secretary of Finance. This letter sets out details of an aggregate sum of Rs. 18.445 billion which was then urgently required to meet unpaid bills due on 23 Road Projects which are listed. The Secretary to the Ministry of Highways, Higher Education and Investment Promotion has stated that as result of these unpaid bills, Work on the Road Projects has been delayed, Liquidated Damages will become payable and Interest will accrue on the Compensation payable for lands that had been



acquired for these Projects. The Secretary had requested the Ministry of Finance, to arrange the required funds on an urgent basis. A copy of this Letter has been attached marked, “X1” to the Affidavit affirmed by the Hon. Prime Minister on 18<sup>th</sup> November 2017 and produced in evidence marked “C366” .

Thereafter, the Sub-Committee on Economic Affairs, which is chaired by the Hon. Prime Minister, had met on 24<sup>th</sup> February 2015. This meeting was attended by Hon. Ravi Karunanayake, MP, then Minister of Finance, Hon. Kabeer Hashim, MP, then Minister of Highways, Higher Education and Investment Promotion, Dr. R.H.S. Samaratinga, Secretary to the Ministry of Finance, Mr. Arjuna Mahendran, Governor of the CBSL, Mr. Malik Samarawickrema, then Senior Advisor to the Hon. Prime Minister and over 30 senior officers who hold responsible positions in the State Sector.

There had been a discussion, at this meeting, regarding unpaid amounts due to Contractors in respect of Road Projects. The evidence establishes that, it was decided at this meeting of the Sub-Committee on Economic Affairs, that, a further meeting be held, as soon as possible, to enable the Ministers who were responsible for the making of these payments and the relevant officials of the Treasury and the CBSL, to ascertain the amounts that are due and to identify the bills that had to be paid on an urgent basis.

Thus, as set out in the Minutes of that Meeting marked “C205”, it was decided that, *“Road Projects - All road projects to be prioritized and be implemented with available funds. a list to be prepared and finalized by next week.”*

The evidence before us establishes that, in pursuance of this decision, a “Breakfast Meeting” had been held in the morning of 26<sup>th</sup> February 2015, at the CBSL.

Hon. Ravi Karunanayake, MP, then Minister of Finance, Hon. Kabeer Hashim, MP, then Minister of Highways, Higher Education and Investment Promotion, Mr. Malik Samarawickrema, then Senior Advisor to the Hon. Prime Minister, Dr. R.H.S. Samaratinga, Secretary to the Ministry of Finance, the Director General of the Road Development Authority and several officials from the Road Development Authority, had attended the meeting.

Mr. Arjuna Mahendran and the three Deputy Governors - namely Mr. Ananda Silva, Dr. Nandalal Weerasinghe and Mr. P. Samarasiri - had represented the CBSL at the this meeting.

The evidence before us, clearly establishes that, the only decision taken at this “Breakfast Meeting” held on 26<sup>th</sup> February 2015 was that, Deputy Governor Weerasinghe and his team of officers were asked to examine the amounts then payable to Contractors on Road Projects and prepare a list of the amounts that were due and to identify the amounts that were urgently payable. This was for the purpose of discussing, at a further meeting to be held, at the Ministry of Finance, during the



month of March 2015, the amounts which Deputy Governor Weerasinghe and his team of officers had identified as being payable and to decide on the payments that had to be made.

Both Mr. Kabeer Hashim and Mr. Malik Samarawickrema stated that, according to their records, the amount that was urgently due for Road Projects was approximately Rs. 18 billion, as identified in the Letter dated 16<sup>th</sup> February 2015 written by the Secretary, Ministry of Highways, Higher Education and Investment Promotion and referred to earlier. Mr. Kabeer Hashim went on to state that, Rs. 3 billion of this sum had been sourced from available funds within his Ministry and that, therefore, the amount that was then urgently needed was Rs. 15 billion. Mr. Kabeer Hashim stated that “*nothing more*” was urgently payable.

Mr. Kabeer Hashim and Mr. Malik Samarawickrema clearly stated that, there was no discussion whatsoever, at this “Breakfast Meeting” held on 26<sup>th</sup> February 2015, about a need to raise any part of these monies at the Treasury Bond Auction to be held on 27<sup>th</sup> February 2015.

The evidence of Deputy Governors Silva, Weerasinghe and Samarasiri was also that, the only decision taken at the “Breakfast Meeting” held on 26<sup>th</sup> February 2015 was that Dr. Weerasinghe and his team of officers were to proceed to identify the amounts payable and that these amounts would then be discussed at a further meeting.

These witnesses confirmed that no decision was taken at this “Breakfast Meeting” to raise money at the Treasury Bond Auction to be held on 27<sup>th</sup> February 2015, for the purposes of paying the amounts due on the Road Projects.

This position is confirmed by the Minutes of the meeting of the Sub-Committee on Economic Affairs, which was held on 10<sup>th</sup> March 2015 and was chaired by the Hon. Prime Minister, held on 03<sup>rd</sup> March 2015. The Minutes, which were marked “**X4C**” and annexed to the Hon. Prime Minister’s Affidavit marked “**C366**” state, ***Road Projects - A list of outstanding payments on road projects has already been prepared. It was advised to obtain the outstanding lump sum to be paid from Line Ministries. A committee has been appointed to look in to this and approve the payments. Payments related to ongoing work on multilateral, Bilateral Projects and rural roads to be released with immediate effect.***”

In fact, when the Hon. Prime Minister testified before us on 20<sup>th</sup> November 2017, he said that, no request had been made for these sums to be raised at the Treasury Bond Auction held on 27<sup>th</sup> February 2015.

Upon the aforesaid evidence and in the aforesaid circumstances, we conclude that:

- (i) No request was made at the meeting of the Sub-Committee on Economic Affairs held on 24<sup>th</sup> February 2015 to raise funds at the Treasury Bond Auction to be held on 27<sup>th</sup> February 2015 for the purpose of paying amounts due on Road Projects or for any other purpose discussed at that meeting ;
- (ii) No request was made at the “Breakfast Meeting” held on 26<sup>th</sup> February 2015 to raise funds at the Treasury Bond Auction to be held on 27<sup>th</sup> February 2015 for the purpose of paying amounts due on Road Projects or for any other purpose discussed at that meeting.

**Section 19.2.4 - The meeting of the Market Operations Committee on 27<sup>th</sup> February 2015**

The CBSL has a long established “Market Operations Committee” which was constituted to implement, by way of the daily operations of the CBSL, the then prevailing Monetary Policy decided by the Monetary Board, on the recommendations of the “Monetary Policy Committee”.

The main functions of the Market Operations Committee are: (i) to manage and control Rupee Liquidity in the Market by operating the “Open Market Window” of the CBSL - *ie*: the REPO/Reverse REPO Auctions conducted by the CBSL and the overnight Standing Deposit Facility/Standing Lending Facility offered by the CBSL; and (ii) to manage and control Foreign Currency Exchange Rates by determining the acceptable ranges of Foreign Exchange Rates in accordance with the prevailing Monetary Policy and by deciding when it is necessary for the CBSL to intervene in the Foreign Exchange Market to control the Foreign Exchange Rates.

As Deputy Governor Weerasinghe explained, the CBSL uses the overnight Standing Deposit Facility/Standing Lending Facility to control short term Interest Rates in the Market.

This Committee consists of the Assistant Governor who supervises Economic Policy [who chairs the Market Operations Committee], the Assistant Governor supervising International Operations, the Director of the Economic Research Department, the Director of the Domestic Operations Department, the Director of the International Operations Department and the Deputy Director of the International Operations Department.

Thus, the Terms of Reference of this Committee, which were marked “**C60B2**”, are:

*“Market Operations Committee (MOC) is entrusted with the task of translating overall monetary policy considerations and objectives into daily operations. The MOC is responsible for making decisions pertaining to managing rupee liquidity including determining daily, the direction and magnitude of open market operations by the Central Bank. The MOC is also responsible for recommendations of allowable range of variations in the foreign currency exchange rates and to set daily reference ranges for central bank intervention in the foreign exchange market, if necessary.*

*Meetings of the MOC are held every morning around 9.00am. Decisions and recommendations of MOC are reports daily to the Deputy Governor and the Governor through its Chairman or in its absence the Deputy Chairman. An Assistant to the Governor responsible for Economic Policy will chair the MOC.”.*

In this connection, Mr. C.P.A. Karunatileke, who, in February 2015, was the Assistant Governor overseeing the Economic Research Department, the Domestic Operations Department, the Statistics Department and the Human Resources Department and, in accordance with the Terms of Reference marked “**C60B2**”, was required to chair the Market Operations Committee, stated, *“Market Operations Committee your Honour, meets every day and that is the operational arm of the Monetary Policy because once the Monetary Policy is decided by the Monetary Board with the recommendation of the Monetary Policy Committee we have to translate that into practice through the open market operations on daily basis by observing the liquidity situation in the market. Now we meet daily and actually there are two stages. The Monetary Policy decisions are taken by the Monetary Board with the recommendation of the Monetary Policy Committee after analyzing the real sector economy, the finance sector, monetary sector and also the external sector developments then once it is approved that has to be translated into practice. The practical side is done through the open market operations. And at the same time, the daily movement of exchange rate has to be managed by the Central Bank intervention. The Market Operations Committee is responsible for carrying out those two functions and then recommending to the Governor for approval.”.*

The Terms of Reference marked “**C60B2**” suggest and the evidence of the witnesses confirm that, the Interest Rates applied to the overnight Standing Deposit Facility/Standing Lending Facility offered by the CBSL are determined by the Monetary Board upon the recommendations of the Monetary Policy Committee. The Market Operations Committee does not determine these Interest Rates.

This makes sense since these Interest Rates are a key factor of the Monetary Policy adopted by the CBSL at a given time and the function of the Market Operations Committee is only to implement this Monetary Policy in the daily operations of the CBSL.

Thus, the Market Operations Committee is not authorised to decide on changes to be made to Interest Rates applied to the overnight Standing Deposit Facility/Standing Lending Facility offered by the CBSL.

In February 2015, although the Market Operations Committee should have been chaired by Mr. C.P.A. Karunatileke in line with Terms of Reference marked "**C60B2**", these meetings were, in fact, chaired by Deputy Governor Weerasinghe in the month of February 2015. Mr. Karunatileke said that, this was because he felt he did not have adequate experience in the relevant area.

Mr. P.W.D.N.R. Rodrigo, who was the Director of the Domestic Operations Department at the time, said that he had been present when the meeting of the Market Operations Committee commenced at around 9am on 27<sup>th</sup> February 2015, under Chairmanship of Dr. Weerasinghe. Mr. Karunathilake had not been at present at that time, as he had been delayed.

Mr. Rodrigo said that, Mr. Mahendran came into the room about one minute after the meeting commenced and sat down. The witness said that Mr. Mahendran then stated *"we want to raise the interest rate. So that we have to remove the special deposit rate of 5%."* Mr. Rodrigo said that Mr. Mahendran then addressed him and said *"Rodrigo, immediately remove this."*

In response to a question from the Commission of Inquiry, Mr. Rodrigo stated that he did not say anything in opposition but only stated that a Press Release would have to be issued, if such a change was to be made.

In response to a question by the Commission of Inquiry as to whether there was a *"clear instruction given by Mr. Mahendran, the then Governor to remove the 5% rate?"*, the witness replied, "Yes.". Mr. Rodrigo added that Mr. Mahendran gave an explanation for this instruction and said that this was being done because, *"We have to attract foreigners to the bond market and also there is a 30 year bond coming now."* Mr. Rodrigo also said Mr. Mahendran stated that, Interest Rates should be pushed up to the Interest Rates that prevailed prior to September 2014. Further, Mr. Rodrigo said that Mr. Mahendran had also said to him, *"Rodrigo you aggressively absorb all liquidity from the market."* The witness added that it was *"another way of saying push up the interest rate. When you take all the money or any commodity, the price go up."*

Mr. Rodrigo stated that in pursuance of the instructions given by Mr. Mahendran, he prepared the draft Circular marked "**C60B(4)**" and submitted it to Assistant Governor, Mr. Karunatileke and Deputy Governor, Dr. Weerasinghe for approval and to be forward by them to Mr. Mahendran.

Mr. Rodrigo stated that, the Assistant Governor and Deputy Governor had not made any objection to the draft Minute other than for the Deputy Governor stipulating that the

Minute should clearly specify that the change will come into effect from 02<sup>nd</sup> March 2015, which was the next working day. Mr. Mahendran had approved the draft Minute.

Thereafter, the email marked “**C60B(5)**”, had been sent to all Market Participants giving notice of the change. This email had been dispatched by the Domestic Operations Department at 4.27pm on 27<sup>th</sup> February 2015.

Mr. H.A. Karunaratne’s evidence is on similar lines. Mr. Karunaratne also said that, Mr. Mahendran had said “*Send the interest rate up*”.

When learned Senior State Counsel asked Mr. Karunaratne whether he knew the rationale which could have led Mr. Mahendran to direct that Interest Rates should be moved upwards, the witness said that, Mr. Mahendran had mentioned that, keeping Interest Rates artificially low, was not appropriate because that will not reflect the true picture. Mr. Karunaratne went on to state that, increasing Interest Rates would help strengthen the Sri Lanka Rupee against the U.S. Dollar and later added that, the value of the Sri Lanka Rupee had been depreciating at that time.

Mr. Karunaratne said that, Mr. Mahendran instructed Mr. Rodrigo, Director of the Domestic Operations Department to draft a Circular effecting the aforesaid changes to the Interest Rates paid on the overnight Standing Deposit Facility.

When learned Senior State Counsel asked Mr. Karunaratne whether Deputy Governor, Weerasinghe or any member of the Market Operations Committee opposed that instruction, he replied “*Nobody was opposed for the view.*”.

The witness said Mr. Mahendran had left the room about five minutes after he entered the room.

The Minutes of the meeting of the Market Operations Committee held on 27<sup>th</sup> February 2015, were marked as “**C60B7A**”.

In answer to questions from the Commission of Inquiry, Mr. Karunaratne said that, at that time there was about Rs 55 billion of excess liquidity in the Market and that an increase in interest rates could “*mop up*” some of that money. He also said that, at that time, the Sri Lanka Rupee was depreciating against the US Dollar.

The evidence before us shows that there had been substantial excess Liquidity in the Market on 27<sup>th</sup> February 2015 and also that the Sri Lanka Rupee had depreciated against the USD in the previous few days. Mr. Karunaratne has acknowledged this position when he gave evidence and in reply to the Commission of Inquiry stated that an increase in Interest Rates could “*mop up excess liquidity*”. In reply to a question by Mr. Chanaka de Silva, Dr. Wijewardena stated that the position which prevailed in the morning of 27<sup>th</sup> February was “*not a very healthy situation*” and that the CBSL would

have had to consider an *“intervention”* and stated, *“We have to do something to first take the speculation out, so it may be intervention or it may be changing the interest rates or doing something.”*

Consequent to the withdrawal of the lower Tier of 5% *per annum*, the Overnight Inter Bank Rate moved up from 6% *per annum* on 27<sup>th</sup> February 2015, up to 7.10% *per annum* on 02<sup>nd</sup> March 2015 and then adjusted to 6.70% *per annum* on 03<sup>rd</sup> March 2015, 04<sup>th</sup> March 2015 and 06<sup>th</sup> March 2015, as set out in the Minutes of the Market Operations Committee of the meetings held on 02<sup>nd</sup>, 03<sup>rd</sup>, 04<sup>th</sup> and 06<sup>th</sup> March 2015, marked, from **“C60B7B”** to **“C60B7E”**. As Mr. Rodrigo stated that, there was a *“sharp increase”* in the Overnight Interest Rates in the Market, up to 7.10% *per annum* on 02<sup>nd</sup> March 2015 and then the Overnight Interest Rates had adjusted to 6.70 % *per annum* on 03<sup>rd</sup> March 2015 and continued at that level for the next three working days.

When Mr. Mahendran gave evidence he said that, the decision to remove the second or lower Tier of Interest at 5% *per annum* applied on the overnight Standing Deposit Facility was taken because it was urgently necessary to do so on 27<sup>th</sup> February 2015 due to the drop of 50 cents in the LKR-USD Forward Exchange Rate on the previous day and the large Net Open Positions in Foreign Exchange which Commercial Banks were then [in the expectation a further depreciation of the Sri Lanka Rupee] coupled with the Report marked **“AM23”** which highlighted a reduction of USD 1 million in Sri Lanka’s Reserves and the excessive Liquidity in the market at that time. Mr. Mahendran said that, in those circumstances, he had discussed with the officials at the Market Operations Committee, *“for about 5 minutes”*, what measures could be taken to ensure that the Sri Lanka Rupee did not depreciate further during that day. Mr. Mahendran stated that, there had been a view expressed that an Open Market Auction should be held to absorb Liquidity and went on to say *“but at the same time I felt there as a need to raise interest rates so that the price of borrowing rupees would rise and that would make it stabilize against the US Dollar..”* Mr. Mahendran also stated that, the proposal to remove the second or lower Tier of Interest at 5% *per annum* applied on the overnight Standing Deposit Facility was made by Deputy Governor, Weerasinghe and that, Deputy Governor, Weerasinghe had said that such a decision could be ratified by the Monetary Board later.

Mr. Mahendran said that, he considered it *“urgent”* and *“necessary for the economy of the country”* to remove the second or lower Tier of Interest at 5% *per annum* applied on the overnight Standing Deposit Facility on 27<sup>th</sup> February 2015. In reply to the Commission of Inquiry, Mr. Mahendran admitted that, *“I definitely take responsibility”* for the decision to remove second or lower Tier of Interest at 5% *per annum* applied on the overnight Standing Deposit Facility *“because I suggested it and they concurred with it but they discussed it.”* When the Commission of Inquiry asked Mr. Mahendran *“So,*



*Mr. Mahendran you take full responsibility for that decision ?”, he replied in the affirmative and when the Commission of Inquiry asked Mr. Mahendran “That’s your decision the MOC concurred ?”, Mr. Mahendran replied “Concurred, Your Honour. But I approved it”. In this connection, we also note that, the Written Submissions filed on behalf of Mr. Mahendran state, “On 27.2.2015 morning Mr. Mahendran decided to remove the 5% penal rate. In this regard, Mr. Mahendran justified this action as being absolutely necessary given the volatility of the LKR vis-a- vis the USD”.*

Mr. Mahendran’s evidence and aforesaid submission taken together with the evidence of Mr. Rodrigo and the other officers who were present at this meeting, makes it clear to us that, the decision to remove the second or lower Tier of Interest at 5% *per annum* applied on the overnight Standing Deposit Facility on 27<sup>th</sup> February 2015 was taken by Mr. Mahendran who had then directed that this decision be implemented.

Although, as observed earlier, the Market Operations Committee is not authorised to decide on changes to be made to Interest Rates applied to the overnight Standing Deposit Facility, Deputy Governor Weerasinghe and the other officers of the Market Operations Committee have not objected to or disagreed with Mr. Mahendran direction and have proceeded to implement that decision, without demur.

There may have been good reason for the CBSL to consider an adjustment to the Two-Tier Interest Rate Structure which was then applied to the overnight Standing Deposit Facility and to consider the removal of the second or lower Tier of Interest at 5% *per annum*. In fact, that had been recommended by the Monetary Policy Committee to the Monetary Board on 23<sup>rd</sup> February 2015.

However, as observed earlier, the Monetary Board had decided, on 23<sup>rd</sup> February 2015, after having considered the recommendation of the Monetary Policy Committee, that no change should be made to those Interest Rates until the Monetary Board considered the next month’s Monetary Policy Review.

Upon the aforesaid evidence, we determine that:

- (i) Although there may have been good reasons requiring an urgent adjustment to the Interest Rates paid on overnight Standing Deposit Facility, Mr. Mahendran acted improperly and in excess of his authority when he, unilaterally and without the prior approval of the Monetary Board, issued a direction, on 27<sup>th</sup> February 2015, to withdraw or remove the Two-Tier Interest Rate Structure of the overnight Standing Deposit Facility and to direct that, only the single Interest Rate of 6.5% *per annum* be applied;



- (ii) The forum which Mr. Mahendran chose to issue that directive - *ie*: the meeting of the Market Operations Committee - was a forum which had nothing to do with the determination of the Interest Rates applicable to the overnight Standing Deposit Facility/ Standing Lending Facility.

In this connection, Deputy Governor Samarasiri said that, the “*correct channel*” to take a decision regarding a change to the Two-Tier Interest Rate structure on the overnight Standing Deposit Facility was for the Monetary Board to take a decision upon the recommendation of the Monetary Policy Committee. He said the Market Operations Committee had no role to play in that decision-making process;

- (iii) We are surprised that Deputy Governor Weerasinghe and the other Heads of Department who were present at that meeting, did not point these matters out to Mr. Mahendran when he gave that instruction. It is a matter of regret that this Deputy Governor and these senior officers remained singularly silent and did not point out to Mr. Mahendran that this decision had to be taken by the Monetary Board and not by the Governor acting unilaterally;
- (iv) As a result of Mr. Mahendran’s directive, Overnight Interest Rates in the Market increased significantly, for a period of time.

This increase in the Overnight Interest Rates would have influenced the short end of the Yield Curve of the Treasury Bond Market to move upwards.

This consequence becomes especially significant in the light of the subsequent events which took place on 27<sup>th</sup> February 2015 and the issue of 30 Year Treasury Bonds to the value of Rs. 10.058 billion at a Weighted Average Yield Rate of 11.7270%, which moved the long end of the Yield Curve of the Treasury Bond Market upwards, too.

As we observed earlier, in Section 19.2.1, bringing about a Treasury Bond Yield Curve which has high Yield Rates, will give “leverage” for a person who holds Treasury Bonds acquired at such high Yield Rates, to profitably trade upon them if and when Yield Rates decline over time.

**Section 19.2.5 - The Treasury Bond Auction held on 27<sup>th</sup> February 2015 and Arjuna Mahendran's intervention in that Auction**

We will first narrate, in brief, the relevant events that occurred during the conduct of this Auction held on 27<sup>th</sup> February 2015.

This narration is based on the testimony of Ms. Deepa Seneviratne, then the Superintendent of Public Debt, Dr. Aazim, then an Additional Superintendent of Public Debt, Ms. Mutugala, then an Additional Superintendent of Public Debt, Mr. Mahendran, Deputy Governor, Silva, Deputy Governor Weerasinghe, Deputy Governor Samarasiri, Mr. S.S. Ratnayake and Mr. C.P.A. Karunatileke and the documents produced in evidence.

The Auction opened at 8.30am. From then onwards, Bids were received on the Electronic System. The Bids were not known until the Auction was closed.

Mr. Mahendran visited the PDD at around 10.45am, while the Auction was underway.

Mr. Mahendran entered the room occupied by Ms. Seneviratne. Dr. Aazim and Ms. Mutugala had also gone into that room.

Mr. Mahendran sat down on a sofa in that room and inquired about the response of the Market to the Auction and the Bids that had been received. Ms. Seneviratne informed him that, since the Auction was still in progress, these details were not available at that time and that, the response of the Market to the Auction, would be known only after the Auction is closed.

Mr. Mahendran then stated that there had been a discussion held on the previous day with regard to *“additional government funding requirement”* pertaining to *“road development activities”*. However, he not mentioned an amount that was required and had not mentioned the parties to the discussion.

Mr. Mahendran had also referred to the *“modality of funding we practice at that time”* - ie: Auctions and Direct Placements - and mentioned *“his preference for auctions .... based financing”*. Mr. Mahendran also mentioned *“..... some discussions .... And they prefer auction based finance.”*

Mr. Mahendran then left the PDD around 11am.

Upon a request made by HSBC, the Auction was extended by five minutes and had closed at 11.05am.

At the close of the Auction, the PDD prepared the Option Sheet marked “**C39B5**”. This Option Sheet shows that, after a consideration of the Bids received and the prevailing Market Conditions, the PDD had considered it prudent to recommend that, Bids to the value of Rs. 2.608 billion be accepted, which would have resulted in a Weighted Average Yield Rate [Net of Tax] of 10.7244.

After Mr. Mahendran left the PDD around 11am, he had proceeded to a Conference Room on the 15<sup>th</sup> floor and chaired a Meeting of the Corporate Management Committee. This meeting had ended at around 12 noon.

Mr. Mahendran had then requested Deputy Governors Silva and Weerasinghe to accompany him to the PDD. Deputy Governor Silva said he thought Mr. Mahendran’s request to be a *“spur of the moment invitation”*. Deputy Governor Silva said that, he had thought that, Mr. Mahendran wished to *“just see the operations.”*

Mr. Mahendran and Deputy Governors Silva and Weerasinghe proceeded together to the PDD is situated and entered the PDD a little after 12 noon.

They walked into the room of the Superintendent of Public Debt. Dr. Aazim, Ms. Mutugala and Ms. M.S.M.P. Fernando, the Head of the Front Office also entered the room.

Mr. Mahendran inquired about the Auction. The Superintendent of Public Debt informed him that Bids for approximately Rs.20 billion had been received.

Mr. Mahendran had then responded saying *“..... we will accept all. He mentioned that we will accept the entirety of bid received.”* Ms. Seneviratne had expressed a concern that it was not advisable to accept the entirety of the Bids received. Dr. Aazim said he informed Mr. Mahendran that, if all the Bids are accepted, *“the interest rate structure would have been substantially elevated ..., in the event of accepting the entirety would make the term structure of interest rates for government securities substantially higher.”*

Dr. Aazim said he also pointed out that, some of the Bids could be “Dummy Bids” made at unrealistically low Prices solely with the intention of meeting the requirement that all Primary Dealers must bid for at least 10% of the offered amount at a Treasury Bond Auction. Mr. Mahendran then asked Dr. Aazim to identify which Bids were Dummy Bids. Dr. Aazim had said that, it may not be possible to easily identify the Dummy Bids but suggested that, Mr. Mahendran looks *“towards the bottom part”* of the Bids Received Sheet which would, usually, contain several Dummy Bids.

This Bids Received Sheet was marked “**C39B4**”. It shows that, a total of 36 Bids had been received. These Bids are listed in the order of the Prices at which the Bids have been placed. The best Bid Price and Yield Rate [for the CBSL] is at the top of the Bids Received Sheet and the least attractive Bid Price and Yield Rate [for CBSL] is at the bottom of the Bids Received Sheet.

We note that, the Names of the Bidders are stated next to their Bids on the Bids Received Sheet marked “**C39B4**”.

Mr. Mahendran had then inquired what the pre-September 2014 Interest Rate Structure was and taken the Bids Received Sheet marked “**C39B4**” into his hand. In this regard, Dr. Aazim stated, “..... *and then governor while inquiring what was the pre September 2014 interest rate structure and he basically looked at my sheet and he took the sheet to his hand .....*”.

In response to questions asked by the Commission of Inquiry, Dr. Aazim said that, therefore, Mr. Mahendran would have had the opportunity of seeing the Names of the Bidders since the Names of the Bidders were stated next to their Bids on this Bids Received Sheet marked “**C39B4**”.

After looking at the Bids Received Sheet marked “**C39B4**”, Mr. Mahendran had asked what the Weighted Average Yield Rate [Net of Tax] was at the previous 30 year Treasury Bond Auction held prior to September 2014 - *ie*: in May 2014. He had been informed that, the Weighted Average Yield Rate [Net of Tax] at the 30 year Treasury Bond Auction held in May 2014 had been 11.75.

Mr. Mahendran had then asked how much could be accepted at the present Auction on the basis that the Weighted Average Yield Rate [Net of Tax] would end up at of 11.75. The officers of the PDD informed Mr. Mahendran that, it would amount to about Rs.10 billion.

Dr. Aazim said that, thereupon, Mr. Mahendran “..... *was mentioning that we should be accepting at that level*”.”. Dr. Aazim said that he had “*maintained*” his previously expressed concern that, accepting more than the sum of Rs.2.608 billion recommended by the PDD would result in an increase in Interest Rates.

In this regard, the evidence before us clearly establishes that, Interest Rates had dropped since September 2014 and that the Interest Rates which prevailed in February 2015 were about 150 basis points [1.5%] less than the Interest Rates which prevailed prior to September 2014.

Dr. Aazim said that, even after the fact that, accepting a large amount at the Auction is likely to push Interest Rates upwards, Mr. Mahendran was “ .....*still in favour of accepting everything required from the auction itself.*” – ie: to fund the entire fund requirement for 02<sup>nd</sup> March 2015 by accepting Bids at this Treasury Bond Auction.

Thereafter, Mr. Mahendran had instructed the Superintendent of Public Debt to accept Bids to a value of Rs.10.058 billion .

In this regard, Dr. Aazim’s evidence was that “..... *my memory serves the fact that he was instructing Superintendent to accept 10 plus from the auction itself.....*”. and added “ ..... *it is a very clear instruction.*”.

With regard to Mr. Mahendran’s statement dealing with the amount to be accepted at that auction held on 27<sup>th</sup> February 2015, Ms. Seneviratne said, “*Finally he said we can take up to Ten Billion.*”. She added that, Mr. Mahendran said this after Dr. Aazim had voiced his concerns on about five occasions.

Ms. Seneviratne described Mr. Mahendran’s statements with regard to accepting Bids to the value of Rs. 10.058 billion be accepted, as constituting “*firm instructions*”. When learned Additional Solicitor General asked her whether Mr. Mahendran had made “*suggestion or a direction*”. Ms. Seneviratne replied, “*Its kind of a firm instruction.*”.

Ms. Mutugala said that, after Mr. Mahendran had stated that the PDD should accept approximately Rs. 10 billion at the Auction and, thereby, obtain a Weighted Average Yield Rate which was similar to that which prevailed prior to September 2014, Mr. Mahendran, “..... *told SPD to do it.*” . In response to a question from the Commission of Inquiry as to what was meant by the words “*do it*”, she replied “*That is to go for 10 billion.*”. In response to a further question by the Commission of Inquiry as to whether Mr. Mahendran used the precise words “*do it*”, Ms. Mutugala replied in the affirmative. When she was asked whether this was in the nature of an “*order*” or a “*request*”, she replied “*I can’t say it’s an order. He just said do it*” and added that it was “*an instruction*” and not “*a request.*”.

Dr. Aazim said that, during these discussions, he had addressed his concerns to the two Deputy Governors who were present and he said “*then I put question to my Deputy Governors asking DG’s what’s your view on accepting high volume?*” and “*I asked their observation straight away.*”. Dr. Aazim said, with regard to the response of the two Deputy Governors, “*They remained silent and Dr. Weerasinghe was trying to kind of see what would be the level around Five Billion like and he just kept quiet. Nothing else came out from Deputy Governors.*”. Ms. Seneviratne also said that, the two Deputy Governors remained silent even when Dr. Aazim pointed out the adverse

consequences which would result if Bids to the value of approximately Rs. 10 billion were accepted.

However, Deputy Governor Silva said he cannot remember Deputy Governor Weerasinghe suggesting that, only Rs.5 billion be accepted. When the Commission of Inquiry asked Deputy Governor Silva “*Did you contribute to the discussion?*”, he replied saying “*Not really.*”. When Deputy Governor Weerasinghe gave evidence, he did not say that he advised against or objected to accepting Bids to the value of approximately Rs.10 billion.

The evidence of Deputy Governors Silva and Weerasinghe is also to the effect that, Mr. Mahendran gave an instruction to the PDD that Bids to the value of Rs. 10.058 billion should be accepted.

In this connection we also note the telephone conversation, which took place at 2.43pm on 27<sup>th</sup> February 2015, between Ms. Steffi Fernando of the Front Office of the PDD and Mr. J.K.D. Dharmapala, Chief Dealer of Bank of Ceylon. The Audio Recording of this conversation was marked “**C133H**”.

During the course of this conversation, Mr. Dharmapala had expressed his shock at the high Rates at which Bids had been accepted at the Treasury Bond Auction. He had gone to the extent of saying that it was “*not ethical*” and had had asked Ms. Fernando to send him a vial of poison.

We note that, in response, Ms. Steffi Fernando has said, “*Mr. ධර්මපාල you won’t believe it is between you and me හරිද? Governor walked into the Department and told take this bid. Take at this level.*”.

When Mr. Dharmapala asked, “*ඇයි එහෙම කරන්නේ ඉතින්?*”, Ms. Fernando had replied, “*ධර්මපාල අපි කොච්චර කිව්වත් ඩිසිස්න් එක ගන්නේ එයානේ.*”, and stated, “*බෑ එහෙම බෑ කියලා ඉතින් මෑන් එව්වර මෑන් ඇහුම්කන් දුන්නේ නෑහැ.*”.

Ms. Fernando also said, “*හරිද? නිකන් මේ ගානට..... Man walked into the Department said. No. What rubbish you are doing. Increase it. Give it at this level. You won’t believe it. He wanted us to take all the bids. අපි කිව්වා සර් ඔහොම කරන්න එපා එතකොට ඔක්කොම යයි. අපිට මෙතන වැඩ කරන්නම බැරිවෙයි කියලා.*” . and “*කොච්චර කිව්වද නෑ සර් This market is not advanced) මේක තමා උපරිම කියලා. මේගොල්ලො ගන්නෑනේ. මේක දුන්නට පස්සේ two basis point. තව උඩ යයි. එහෙමනේ යන්නේ Mr. ධර්මපාල කිව්වට ඉතින්. What can we do?*” and “*ඔයා දන්නෑ Mr. ධර්මපාල කොච්චර Convince කරන්න හැදුවද ඒක බෑ අරක බෑ සර් දිසිස් එයාට between you and me Mr. ධර්මපාල කාටවත් කියන්න එපා එයා ඉන්නේ අර International Market idea එකේනේ Mr. ධර්මපාල He doesn’t have an understand of our market no... අපි දන්නවානේ මෙහෙම දුන්නම මොනාද වෙයි කියලා.*”.



A perusal of Mr. Mahendran's evidence establishes that, he admits that, he visited the PDD on these two occasions - alone, the first time and accompanied by the two Deputy Governors, the second time. Mr. Mahendran did not contradict or dispute the aforesaid testimony given by Ms. Seneviratne, Dr. Aazim and Ms. Mutugala with regard to what Mr. Mahendran had said on these two visits. With regard to the dialogue on accepting Bids to the value of Rs. 10.058 billion, Mr. Mahendran said, *"Well, we had a discussion on this for a few minutes. But the number that seemed reasonable when I discussed with the staff was around 10.058 billion for the simple reason that it meant that the highest yields that would be on offer would be 12.5% which coincided with the coupon that was advertised for that bond and the weighted average yield rate which the government would pay for the entire auction would be 11.73% which was two basis points lower than the previous 30 year bond auction which was held in late May 2014 where the yield for 2 billion rupees had been 11.75%."*

We note that, the evidence of Ms. Seneviratne, Dr. Aazim or Ms. Mutugala is that, after the *"discussion"* which Mr. Mahendran refers to, Mr. Mahendran issued an instruction or a direction that, Bids to the value Rs.10.058 billion be accepted. Ms. Steffi Fernando's narrative of Mr. Mahendran's second visit to the PDD and the instructions or direction that he gave to accept Bids to the value of Rs. 10.058 billion is particularly telling, as a contemporaneous account of the events of that visit. Mr. Mahendran could not have been unaware that, when he, as the Governor of the CBSL, said that Bids to the value of Rs. 10.058 billion should be accepted, the PDD would do what he said, particularly in view of the authority held by a Governor of the CBSL in the eyes of the staff of the CBSL.

We are of the view that, a consideration of totality of the aforesaid evidence, establishes that, Mr. Mahendran issued an unequivocal directive to the PDD, on 27<sup>th</sup> February 2015, to accept Bids to the value of Rs. 10.058 billion at the Treasury Bond Auction held on that day.

The evidence of the witnesses also establishes that, during his second visit to the PDD on 27<sup>th</sup> February 2015, Mr. Mahendran issued a further directive to the PDD to suspend or stop the acceptance of Direct Placements of Treasury Bonds. That will be considered in the next Section of this Chapter.

Mr. Mahendran and the two Deputy Governors had then left the PDD.



In view of Mr. Mahendran's direction, Ms. Seneviratne had made the following Note, marked, "**C39B5A**" at the bottom of the Option Sheet marked "**C39B5**".

*"Hd/FO*

*G [Governor] instructed to raise funds up to Rs. 10 bn, taking into consideration of additional fund [requirement] of the Govt. Pl."*

In view of Mr. Mahendran's directive, the PDD had prepared another Option Sheet setting out a recommendation that, Bids to the value of Rs. 10.058 billion be accepted with a Weighted Average Yield Rate [Net of Tax] of 11.7270. This second Option Sheet was marked "**C39B6**".

Thereafter, Ms. Seneviratne, Dr. Aazim and Ms. Mutugala had proceeded to the Conference Room on the 15<sup>th</sup> Floor where the Tender Board was to meet at 12.30pm. The meeting of the Tender Board was chaired by Deputy Governor Samarasiri.

The officers of the PDD had tabled the second Option Sheet marked "**C39B6**", at the meeting of the Tender Board.

The members of the Tender Board had expressed their surprise that, the PDD had recommended that Bids to a value of Rs. 10.058 billion be accepted at a Weighted Average Yield Rate [Net of Tax] of 11.7270, after having offered only Treasury Bonds to the value of Rs. 1 billion at the Auction.

Ms. Seneviratne, Dr. Aazim and Ms. Mutugala had then recounted the events that had occurred earlier and stated that, Mr. Mahendran had instructed them to accept Bids to the value of Rs.10.058 billion. Dr. Aazim said that, Ms. Seneviratne "..... *very clearly stated that the Governor's presence with two Deputy Governor's and instructions to raise 10 plus Billion from the auction and the Department's recommendation at that time was 2.6 billion and she very clearly stated this.*" .

Dr. Aazim said that, the members of the Tender Board had expressed their concern that, accepting Bids to the value of Rs.10.058 billion was inadvisable and that, "*different market environments*" made it "*not possible*" to compare the prevailing Interest Rates with the Interest Rates which prevailed prior to September 2014.

Ms. Seneviratne said that, the members of the Tender Board, including Mr. Samarasiri, were "*shocked*" when she and the other officers of the PDD narrated the events relating to Mr. Mahendran's earlier visits to the PDD and that the members had commented, "*They said no Governor has gone to the Public Debt Department during the auction time.*".

In answer to a question by the Commission of Inquiry, whether any member of the Tender Board was in favour of accepting Bids to the value of approximately Rs.10 billion, she said that, the members of the Tender Board were unanimously against that idea.

Mr. C.P.A. Karunatileke stated that, Mr. S.S. Ratnayake had commented, *“this is absurd, because it is going to have a shock in the market.”*

Deputy Governor Samarasiri, who was chairing the meeting, said that, Dr. Aazim had mentioned that, the PDD’s *“initial recommendation”* was to accept Rs.2.6 billion and that, Dr. Aazim recounted the events that took place when Mr. Mahendran visited the PDD with the two Deputy Governors.

Deputy Governor, Samarasiri said that, he had concerns from a “Governance” point of view and said *“I openly asked from the Tender Board, if the Governor can issue instruction why we have a Tender Board?”*. In response to a question from learned Additional Solicitor General, Mr. Samarasiri said he felt it was improper for Mr. Mahendran to have intervened in the decision-making process of the PDD.

Deputy Governor Samarasiri said that, he wondered how he could be sure that, Mr. Mahendran had, in fact, visited the PDD and given an instruction to accept Bids to the value of Rs.10.058 billion. In this connection, Mr. Samarasiri said, *“Now immediate response was that then I ask how do I believe that Governor came and gave this instruction.”*

Dr. Aazim said that, Deputy Governor Samarasiri was also concerned about accepting Bids to the value of Rs.10.058 billion and that Mr. Samarasiri also wished to meet Mr. Mahendran *“to clarify this point with the Governor.”* and added, with regard to Mr. Samarasiri, *“He was concerned to clarify the Governor’s instruction and also the entire Tender Board at that time and wanted to clarify this position with Governor.”* – ie: *“To clarify on what basis that a higher volume is justified to accept.”*

Dr. Aazim said that, then, the *“..... members suggested that we should go and meet the Governor to clarify his position and inquired from the Chairman, we should go and speak to the Governor with respect to his instruction.”*

Deputy Governor Samarasiri said that, it was suggested to him that he contacts Mr. Mahendran and ascertains the details. In this connection, Mr. Samarasiri said, *“Then Ms. Mutugala said DG why don’t you contact the Governor and discuss whether he did it and why?”*

In response to a question from learned Additional Solicitor General, Deputy Governor Samarasiri said, “.... Any discussion did not take place. We were concerned only about the Governor going and sending instruction verification only. No discussion took place.”.

Deputy Governor Samarasiri said that, he then telephoned Mr. Mahendran’s office using the Intercom that was in the Conference Room. However, he had been told that, Mr. Mahendran was not in his office.

Deputy Governor Samarasiri said that, he then went to his office which is in the adjoining room, to telephone Mr. Mahendran since he could use his mobile phone, which was in his office. He said that, he does not bring a mobile phone with him to meetings.

Deputy Governor Samarasiri said that, when he telephoned Mr. Mahendran, he was told that, Mr. Mahendran had instructed the PDD to accept Bids to the value of Rs.10.058 billion. In this connection, Mr. Samarasiri said, “ *The first question I asked, did you instruct the Public Debt Department to accept 10 billion. Then he said yes. Then I said the Public Debt Department say it is 10 times. It is 10 times the offered amount. So is this OK. That is the question I wanted to know is his rationale, Because I am talking about my experience with the Governor. If the Governor is giving instruction there must be some rationale. Otherwise, Governor may not give instruction. I want to know it.* ”.

Deputy Governor Samarasiri said that, Mr. Mahendran had given the following three reasons why he had instructed the PDD to accept Bids to the value of Rs.10.058 billion - (i) the expectation that, the removal of the Two Tier Interest Rate structure on the overnight Standing Deposit Facility and the application of a single Interest Rate of 6.5% on all overnight Standing Deposits, would guide Interest Rates back to the Rates which prevailed prior to September 2014; (ii) the fact that there was excess liquidity which should be mopped up and which brought about a demand for Treasury Bonds; and (iii) the Government requiring extra funding.

When the Commission of Inquiry asked Deputy Governor Samarasiri whether he accepted the reasoning adduced by Mr. Mahendran, the witness said “*Immediate response I accepted is a very technical ...*”.

Deputy Governor Samarasiri said that, he then returned to the Conference Room and conveyed to the members of the Tender Board that, Mr. Mahendran had confirmed that he instructed the PDD to accept Bids to the value of Rs.10.058 billion. Mr. Samarasiri

said he also informed the members of the Tender Board of the three reasons adduced by Mr. Mahendran.

Dr. Aazim said that, Deputy Governor Samarasiri returned to the Conference Room, he “ ..... mentioned the Governor’s reasoning in terms of additional fund requirement of the Government and the bidding in terms of the volumes received as reasons for accommodating a higher volume and this was subsequently minuted in the minute Sheet of the Tender Board.”.

Dr. Aazim went on to say that, his impression was that, Mr. Samarasiri “ ..... went with the Governor’s recommendation. And then he came back and said we have to accept that amount which had been said and told beforehand to the Superintendent and Public Debt.”.

Ms. Seneviratne said that, when Mr. Samarasiri came back to the Conference Room after telephoning Mr. Mahendran, Mr. Samarasiri had said, “ ..... this is a Governor’s instructed me to convince the Tender Board to go for this ten billion Rupees.”. Ms. Seneviratne went on to say that, the members of the Tender Board “had long discussions, everybody said no, how can we accept this but finally .... We had to do something because Governor is our boss.”.

Mr. Ratnayake said that, when Deputy Governor Samarasiri returned to the Conference Room, “He said he contacted the Governor over the phone and Governor required to take 10.058 billion.”. and that, Mr. Samarasiri stated, “we have to comply with the Governor’s direction.”.

Mr. Karunatileke stated that, when Mr. Samarasiri returned to the Conference Room and aid, “අපිට මේක ගන්ඩ වෙනවා” and added, “because the Governor insisted on that.....”. When the Commission of Inquiry asked Mr. Karunatileke whether Deputy Governor Samarasiri had stated any reasons adduced by Mr. Mahendran for accepting Bids to the value of Rs.10.058 billion, Mr. Karunatileke said that, Deputy Governor Samarasiri had mentioned that Mr. Mahendran informed that the “Government need some funds that’s why he is insisting on us to accept this.”.

Dr. Aazim said that, the Tender Board recorded this decision “with reluctance” and only in view of Mr. Mahendran’s “instruction” that Bids to the value of Rs.10.058 billion should be accepted and Mr. Samarasiri’s “approval” of that decision in his capacity as the Chairman of the Tender Board.

Ms. Seneviratne said that, the members of the Tender Board “had long discussions, everybody said no, how can we accept this but finally ..... we had to do something because Governor is our boss.”.

Mr. Ratnayake said that he was *“really frustrated”* that the Tender Board was being instructed to accept Bids to the value of Rs. 10.058 billion and said *“if we accept this type of recommendation or decision I said that, “අපි අපේ ඇඳුම් ගලෝලා යන්න ඕනේ කියලා මුන් කිව්වා.”*

Mr. Karunatileke said that he remembered Mr. Ratnayake making a statement to that effect. However, Ms. Seneviratne, Dr. Aazim and Ms. Mutugala did not refer to that comment in their evidence, though one would expect that, a colourful statement of that nature would have remained in their memory and be referred to when they testified. Deputy Governor Samarasiri said that, Mr. Ratnayake did not make such a statement.

When the Commission of Inquiry referred to Deputy Governor Samarasiri’s telephone conversation with Mr. Mahendran and asked Mr. Samarasiri, *“You listened and obeyed? Is that what you are saying ?”*, Deputy Governor Samarasiri, *“So I felt ..... reasons had lot of value.”* When the Commission of Inquiry then asked, *“So you basically obeyed ?”*, he replied, *“Yes.”*

When the Commission of Inquiry asked from Deputy Governor Samarasiri, *“If the Governor had not intervened the Tender Board would have accepted 2.6 billion ?”*, he replied, *“Not 2.6 billion. We would have discussed.”* When the Commission of Inquiry asked *“You would have discussed ? So it would have been in that region. Correct?”*, Deputy Governor Samarasiri replied, *“In that region.”*

When the Commission of Inquiry then asked whether the Tender Board would have accepted Rs.10.058 billion if Mr. Mahendran had not intervened, Deputy Governor Samarasiri unequivocally replied that, the Tender Board would not have accepted that sum.

When the Commission of Inquiry then asked from Deputy Governor, Samarasiri, *“So, therefore the only reason why the Tender Board eventually ended up signing off ? an acceptance of 10.058 billion was Mr. Mahendran’s instruction. Is that correct ?”*, he replied, *“Yes on those views and instructions we look at and accordingly accepted.”*

Thereafter, the Minutes of the meeting of the Tender Board had been dictated by Deputy Governor, Samarasiri setting out the reasons mentioned by Mr. Samarasiri [as having been conveyed to him by Mr. Mahendran] and deciding that, Bids to the value of Rs.10.058 billion, be accepted.

This was done in the Conference Room where the meeting was held. Thereafter, the Minutes had been printed out. These Minutes were marked **“C39B8”**.

These Minutes state:

*"1. The information provided by PDD to make a rate decision for Treasury Bond auction held on 27-02-2015 are as follows: (See attendance of the Tender Committee Members)*

<i>Series</i>	<b>12.50% 2045 'A'</b>
<i>ISIN</i>	<b>LKB03045C013</b>
<i>Maturity date</i>	<b>01-03-2045</b>
<i>Settlement Date</i>	<b>02-03-2015</b>
<i>Amount Offered (Rs. Mn.)</i>	<b>1,000.0</b>
<i>Bid Received (Rs. Bn)</i>	<b>20,708</b>

2. *The Tender Committee having considered;*

- a) *tight financing requirement of the Government;*
- b) *prevailing high liquidity level in the market as reflected in bids; and*
- c) *the term structure of interest rates prevailed prior to September 2014, granted approval for accepting Rs. 10,058 million at the net of tax WAYR of 11.73%".*

When the Commission of Inquiry asked Ms. Seneviratne why she had signed these Minutes if she had disagreed with the decision stated therein, Ms. Seneviratne said "..... *We happened to sign for this because the Governor has instructed that Chairman said this is what the Governor wanted us to do. We were compelled to do that.*"

Dr. Aazim stated that, when the meeting of the Tender Board concluded, Deputy Governor, Samarasiri took the Minutes marked "**C39B8**", which had to be submitted to Mr. Mahendran for his consideration and approval of the decision stated therein.

When Mr. Mahendran gave evidence, when Mr. Romesh De Silva, PC asked Mr. Mahendran whether, "*prior to the meeting of the Tender Board you also, your views were known that you wanted bids up to 10 billion to be accepted ?*", Mr. Mahendran replied "*Yes, Your Honour.*"



Thereafter, when the Commission of Inquiry asked Mr. Mahendran, “*Did you make your views known to the Tender Board ?*”, Mr. Mahendran admitted that, Deputy Governor Samarasiri telephoned him during the course of the meeting of the Tender Board and that, at that time, Mr. Mahendran had not been at the CBSL. Mr. Mahendran later stated that, he was having his lunch at his daughter’s house at that time. That is the house at Flower Road occupied by Mr. Mahendran’s daughter and Mr. Arjun Aloysius where Mr. Mahendran resided during his tenure as the Governor of the CBSL.

Mr. Mahendran denied having “*directed*” or “*bulldozed*” the Tender Board to accept Bids to the value of Rs. 10.058 billion.

However, the evidence of all the members of the Tender Board who testified before us is to the effect that, after this telephone conversation, Deputy Governor Samarasiri conveyed to them that, Mr. Mahendran had unequivocally instructed that, Bids to the value of Rs. 10.058 billion be accepted. The evidence of Deputy Governor Samarasiri who spoke on the telephone with Mr. Mahendran is particularly significant because, as set out above, in response to Questions asked by the Commission of Inquiry, Deputy Governor Samarasiri said that, the Tender Board “*decided*” that, Bids to the value of Rs.10.058 billion should be accepted because Deputy Governor Samarasiri “*obeyed*” instructions given by Mr. Mahendran and, further, that the only reason why the Tender Board “*decided*” that, Bids to the value of Rs.10.058 billion should be accepted were the “*views and instructions*” given by Mr. Mahendran.

We conclude that, the totality of the aforesaid evidence amply establishes that, Mr. Mahendran issued a directive to the Tender Board, on 27<sup>th</sup> February 2015, to accept Bids to the value of Rs. 10.058 billion at the Treasury Bond Auction held on that day.

We are also note that Deputy Governor, Samarasiri, who chaired the Tender Board has supinely acted in compliance with the aforesaid directive or instructions given by Mr. Mahendran even though he stated, when asked by the Commission of Inquiry, that, he and the Tender Board would have accepted Bids to the value of Rs. 2.068 billion or an amount in that region [as originally recommended by the PDD], if Mr. Mahendran had not intervened.

We also note that, the other member of the Tender Board have acted, equally obediently, in compliance with the aforesaid directive or instructions given by Mr. Mahendran and have failed to record any dissent they might have expressed in the Minutes of the meeting of the Tender Board. In this regard, we note, in particular, that, although when Mr. S.S. Ratnayake gave evidence, he expressed strong disapproval of the manner in which the Tender Board reached the decision to accept Bids to the



value of approximately Rs. 10.058 billion in compliance with the directive given by Mr. Mahendran, Mr. Ratnayake failed to insist that any alleged dissent by him was recorded in the Minutes of the meeting of the Tender Board.

Next, we note that, the Meeting of the Domestic Debt Management Committee to draw up the Domestic Borrowing Programme for the month of March 2015 was held after the Auction was concluded.

This is clearly unsatisfactory. The officers of the PDD should have ensured that, they held the meeting of the Domestic Debt Management Committee long before 27<sup>th</sup> February 2015. In this connection, we note that, the PDD received the Daily Cash Flow Statement from the Department of Treasury Operations on 23<sup>rd</sup> February 2015 and had ample time to convene a meeting before 27<sup>th</sup> February 2015, which was the last working day of the month.

We also note that, although the Domestic Debt Management Committee met after the Auction was concluded and was aware that, Bids to the value Rs. 10. 058 billion had been accepted, the Domestic Borrowing Programme for March 2015 prepared at that meeting and marked “**39B12**”, only reflects the amount of Rs. 1.0 billion which was offered at that Auction held on 27<sup>th</sup> February 2015 and states that, the balance fund requirement on 02<sup>nd</sup> March 2015 [of Rs. 12.550 billion] was to met by way of Direct Placements.

We also note that, the Domestic Borrowing Programme marked “**39B12**” and prepared at that meeting, proceeds on the basis that, Direct Placements up to a value of Rs. 164. 9 billion were to be accepted in March 2015 despite the officers of the PDD being aware that, Mr. Mahendran had, earlier that day, directed that the acceptance of Direct Placements be suspended or stopped.

Later on in the afternoon, the results of the Auction had been released to the Market in accordance with the normal procedure.

The evidence established that several Market Participants were surprised by the results.

Ms. Mutugala said that, when the results of the Auction were known, the “*Market was not happy with that decision.*”. She added that, normally the PDD accepted “*two times or three times*” the amount offered at a Treasury Bond Auction.

Mr. Silva said that, sometime after the results of the Auction held on 27<sup>th</sup> February 2015 were released, Mr. Lionel of the National Savings Bank telephoned him and expressed “*his displeasure*” about the increased Rates at which Bids had been accepted at the Auction. The witness also said that, Mr. Lionel expressed “*surprise*” that CBSL had accepted Bids to the value of Rs. 10 billion.

Several representatives of the Primary Dealer entities who testified before the Commission of Inquiry, including Mr. M.D. Schaffter, Ms. Suhini Fernando, Mr. B.M.F.I. Mendis and Mr. H.N.K.B. Meegolla stated that, they were surprised at the outcome of the Auction.

During his aforesaid telephone conversation with Ms. Steffi Fernando in the afternoon of 27<sup>th</sup> February 2015, Mr. Dharmapala of the Bank of Ceylon expressed his shock at the high Rates at which Bids had been accepted at the Treasury Bond Auction and went to the extent of saying that it was “*not ethical*” and had had asked Ms. Fernando to send him a vial of poison. Ms. Fernando said that the results of the Auction were a massive shock to the Market. [“මරණ shock එකක”]

The Bids Received Sheet, marked “**C39B4**”, which sets out all the Bids received at the Auction held on 27<sup>th</sup> February 2015 shows that, 36 Bids were received. From the CBSL’s perspective, the best Yield Rate [Net of Tax] was 9.3510, which was the Yield Rate of a Bid for Rs. 8 million placed by Bank of Ceylon, on behalf of the Kalutara Bodhi Trust. From the CBSL’s perspective, the least favourable Yield Rate [Net of Tax] was 18.0000, which was the Yield Rate of a Bid for Rs. 100 million placed by Sampath Bank PLC and which appears to be a “Dummy Bid”.

The EPF had placed Bids at this Auction for an aggregate sum of Rs. 2 billion at the following Yield Rates – a Bid for Rs. 500 million at 10.7496, a Bid for Rs. 1 billion at 10.9998 and a Bid for Rs. 500 million at 11.2500.

If Bids only up to an aggregate value of Rs. 2.608 billion had been accepted, as first recommended by the PDD in the first Option Sheet marked “**C39B5**”, the highest Yield Rate accepted would have been 10.9998. As stated earlier this would have resulted in a Yield Rate [Net of Tax] of 10.7244.

If Bids to the value of Rs. 2.068 billion had been accepted, as first recommended by the PDD in the first Option Sheet marked “**C39B5**”, the following 12 Bids as set out in the Bids Received Sheet marked “**C39B4**”, would have been accepted:

	Primary Dealer	Amount Tendered	Bid Price	Yield Rate [Net of Tax]
1.	Bank of Ceylon	8,000,000	119.33420	9.3510
2.	Acuity Securities Ltd	50,000,000	112.01000	9.9999
3.	First Capital Treasuries Ltd	100,000,000	110.95480	10.0998
4.	Bank of Ceylon	500,000,000	109.39320	10.2509
5.	Entrust Securities PLC	50,000,000	104.50730	10.7496
6.	NSB Fund Management Company	100,000,000	104.50730	10.7496
7.	Employees Provident Fund	500,000,000	104.50730	10.7496
8.	Entrust Securities PLC	50,000,000	103.11580	10.8999
9.	People's Bank	100,000,000	102.20720	10.9998
10.	NSB Fund Management Company	100,000,000	102.20720	10.9998
11.	Employees Provident Fund	1,000,000,000	102.20720	10.9998
12.	NatWealth Securities Ltd	50,000,000	102.20700	10.9998

As set out in the Bids Received Sheet marked “**C39B4**”, if the aforesaid 12 Bids had been accepted, the CBSL would have received an aggregate sum of Rs. 2.732 billion in settlement of the Bids, since all these Bids were at a premium and at Prices ranged from a high of Rs. 119.33420 to a low of Rs. 102.20700.

Since, as mentioned earlier, the PDD had previously raised approximately Rs. 3.4 billion by way of Direct Placements with a Settlement Date of 02<sup>nd</sup> March 2015, the acceptance of Bids to the value of Rs. 2.068 billion at this Auction [as initially recommended by the PDD], would have resulted in the PDD having made, by 27<sup>th</sup>

February 2015, arrangements to raise an aggregate sum of Rs. 6.131 billion on 02<sup>nd</sup> March after the Auction – ie: 2.732 billion + 3.4 billion = Rs. 6.132 billion.

That would have meant that, if Bids to the value of only Rs. 2.608 billion were accepted at the Auction [as initially recommended by the PDD], the PDD only had to raise another Rs. 7.418 billion for Settlement on 02<sup>nd</sup> March 2015, in order to satisfy the total funding requirement of Rs. 13.55 billion on 02<sup>nd</sup> March 2015.

We note that, by 27<sup>th</sup> February 2015, the PDD was very proficient in the raising of Direct Placements, with 90% of the funding requirement being raised by Direct Placements.

Dr. Aazim was confident that, the PDD could have easily raised this balance sum of by way of Direct Placements.

Replying questions from Commission of Inquiry, Ms. Seneviratne said that, if the sum of Rs. 2.608 billion first recommended by the PDD had been accepted and Direct Placements had continued to be used, the PDD could have raised the balance funding requirements for 02<sup>nd</sup> March 2015 on or before that day. In this regard, she said that, the Direct Placement Window could have been opened on 27<sup>th</sup> February 2015 after the Auction was concluded and also that she had been advised that Direct Placements could be made on 02<sup>nd</sup> March 2015 with a Settlement Date which was fixed for the same day.

She added that, if these methods failed, the PDD could, as a last resort, arranged to temporarily overdraw the Government's Account with the Bank of Ceylon and find that Account in the course of the next week.

When Dr. Aazim was questioned by Mr. Nihal Fernando, PC, he said that, the balance funds amounting to Rs. 7.42 billion could have been raised by way of Direct Placements if the Direct Placements window was kept open. He said *"In fact on 02nd March itself (if) the placement window was available. From my experience sir in terms of the fund raised in the placement arrangement in the past says 7 plus billions are not a volume that a we looked as serious, Sir."* Dr. Aazim continued to say, *"In fact sir, my experience in the Public Debt Department says raising forty fifty billion within a few hours through direct placement window was also very much feasible."* In this regard, Dr. Aazim also stated that, Direct Placements can be accepted on the basis that settlement is to be made on the day of acceptance itself.

Deputy Governor, Samarasiri agreed when he was asked whether, *"..... several billion can be raised on the same day ? value same day ?"* by way of Direct Placements,

Dr. Wijewardene observed that, if necessary, the balance funds could have been raised by drawing upon the Overdraft Facility with Bank of Ceylon and repaying those

amounts by issuing a Treasury Bond in the course of the following week or by a REPO transaction with the EPF or other participant in the Open Market Window.

In contrast to the evidence given by all these witnesses, when Mr. Mahendran gave evidence he said he doubted that, the PDD could have raised further monies by accepting Direct Placements before 02<sup>nd</sup> March 2015. In the light of the evidence before us, we do not consider that, Mr. Mahendran had reasonable grounds to entertain that doubt.

In any event, as stated in the next section, on 27<sup>th</sup> February 2015, Mr. Mahendran gave a direction, that Direct Placements be stopped and as a result of this, the Direct Placement Window was not available to the PDD.

We also note that, if the purpose of holding a 30 Year Treasury Bond Auction on 27<sup>th</sup> February 2015 was to fix the longer end of the Treasury Bond Yield Curve [as discussed at the meeting of the Monetary Board held in 23<sup>rd</sup> February 2015], the acceptance of Bids to the value of Rs. 2.608 billion as originally recommended by the PDD, would have fully secured that objective. There was no need whatsoever to accept Bids to the value of Rs.10.058 billion for the purpose of determining the longer end of the Treasury Bond Yield Curve.

As a result of Mr. Mahendran's direction that, Bids to the value of Rs. 10.058 billion be accepted, 14 more Bids were accepted over and above the 12 Bids that would have been accepted if the PDD's initial recommendation to accept Bids to the value of Rs. 2.608 billion only, had been acted upon - *ie*: a total of 26 Bids were eventually, accepted as set out in the Bid Sheet marked "**C39B9**".

These 14 further Bids that were accepted as a result of Mr. Mahendran's direction, are set out below:

	Primary Dealer	Amount Tendered	Bid Price	Yield Rate [Net of Tax]
13.	NSB Fund Management Company	100,000,000	101.75800	11.0502
14.	NatWealth Securities Ltd	50,000,000	99.99900	11.2500
15.	Employees Provident Fund	500,000,000	99.99900	11.2500
16.	Perpetual Treasuries	250,000,000	97.87800	11.5002
17.	Perpetual Treasuries	250,000,000	95.83940	11.7504
18.	Seylan Bank PLC	1,250,000,000	95.80740	11.7540
19.	Wealth Trust Securities Ltd	50,000,000	93.87900	11.9997
20.	Perpetual Treasuries	500,000,000	93.87900	11.9997
21.	Perpetual Treasuries	1,000,000,000	91.99280	12.2499
22.	Wealth Trust Securities Ltd	50,000,000	90.17700	12.5000
23.	HSBC	100,000,000	90.17700	12.5000
24.	Pan Asia Banking Corporation	250,000,000	90.17700	12.5000
25.	Capital Alliance	100,000,000	90.17690	12.5000
26.	Bank of Ceylon	3,000,000,000	90.16990	12.5009

It is evident that, the further 14 Bids which were accepted following Mr. Mahendran's direction, ranged from a Bid for Rs. 100 million placed by NSB Fund Management Company at a Bid Price of 101. 75800 and a Yield Rate [Net of Tax] of 11.0502 up to

a Bid for Rs. 3 billion placed by Bank of Ceylon at a Bid Price of 90.16990 and a Yield Rate [Net of Tax] of 12.5009.

It is noted that, these further 14 Bids which were accepted follow Mr. Mahendran's direction, included the following Bids placed by Perpetual Treasuries Ltd.

		Amount Tendered	Bid Price	Yield Rate [Net of Tax]
16.	Perpetual Treasuries	250,000,000	97.87800	11.5002
17.	Perpetual Treasuries	250,000,000	95.83940	11.7504
20.	Perpetual Treasuries	500,000,000	93.87900	11.9997
21.	Perpetual Treasuries	1,000,000,000	91.99280	12.2499

Further, the evidence of Mr. Dharmapala of Bank of Ceylon proves that the 26<sup>th</sup> Bid shown on the aforesaid Table - *ie*: the Bid for Rs. 3 billion placed by Bank of Ceylon - was placed on behalf of Perpetual Treasuries Ltd. That fact was admitted by Mr. Kasun Palisena, the Chief Executive Officer of Perpetual Treasuries Ltd.

Therefore, the 26<sup>th</sup> Bid shown on the above Table - *ie*: the Bid for Rs. 3 billion placed by Bank of Ceylon at a Bid Price of 90.16990 and a Yield Rate [Net of Tax] of 12.5009 - was also secured by Perpetual Treasuries Ltd.

Thus, it is seen that, as a direct result of Mr. Mahendran's direction given to the PDD to accept Bids to the value of Rs. 10.058 billion, Perpetual Treasuries Ltd obtained Treasury Bonds to an aggregate value of Rs. 5 billion at Bid Prices ranging from 97.87800 to 91.99280 and Yield Rates [Net of Tax] ranging from 11.5002 to 12.5009.

In this connection, it is also clear to us that, a glance at the Bids Received Sheet marked "**C39B4**", which Mr. Mahendran looked at prior to issuing his direction to accept Bids to the value of Rs. 10.058 billion, would have shown that, if Bids to that value were accepted, Bids to the value of Rs. 2 billion placed by Perpetual Treasuries Ltd would be accepted. Further, it would be evident that, the Bid of Rs. 3 billion made by Bank of Ceylon would also be accepted.

Next, it is observed that, other than for the 13<sup>th</sup> Bid for Rs. 100 million placed by NSB Fund Management Company at a Bid Price of Rs. 101.75800, all the other 13 Bids which were accepted following Mr. Mahendran's direction, are at a "Discount" with Bid Prices ranging from a high Price of Rs. 99.99900 to a low Price of Rs. 90.16990.



As a result of accepting the aforesaid 26 Bids following Mr. Mahendran's directive and consequent to the fact that, as stated above, 13 of these Bids were at a "Discount", the cumulative amount received by CBSL on the Treasury Bonds issued to value of Rs. 10.058 billion, was Rs. 9.658 billion.

Finally, we also note that, the officers of PDD, several other senior officers of the CBSL and Dr. Wijewardena all testified that, they were unaware of any previous instance in which a Governor of the CBSL visited the PDD during an Auction.

In this connection, when learned Senior State Counsel asked Dr. Wijewardena whether, during his tenure in the CBSL, he was aware of any instance when a Governor had visited the PDD during an Auction, Dr. Wijewardena said that he had not known of any such instance. He added, *"Because its considered as out of bonds for all of us when the auction takes place and to my knowledge there has not been any governor who had visited the Public Debt Department while an auction was taking place."*

Upon the evidence before us, we reach the following determinations.

- 1] We note that, the Procedures that have been adopted by the CBSL [and which have been described in some detail earlier] are designed to ensure that, the decision-making process in an Auction of Treasury Bonds is conducted in a manner in which:
  - 1] The PDD prepares its own independent assessment of the Auction and decides on its recommendation of the value of Treasury Bonds that should be accepted at the Auction;
  - 2] Thereafter, the Tender Board considers these recommendations and arrives at its own decision, by drawing on the experience of its members;
  - 3] Finally, the decision of the Tender Board is submitted to the Governor for his consideration and approval.

It is apparent that, this Procedure has been designed to ensure that, in the first instance, the decision-making process utilizes the knowledge and technical skills of the officers of the PDD who have an intimate knowledge of the day to day operations of the Market and technical skills in the raising of Public Debt. Thereafter, at the second stage, this Procedure utilizes the range of skills, greater experience and breadth of knowledge of the members of the Tender Board, to assess the recommendations of the PDD and arrive at a considered decision with regard to the Bids to be accepted an Auction. Finally, at the third stage, the decision of the Tender Board is considered by the Governor who

retains the authority to arrive at a final decision and can, if he considers it necessary, request the Tender Board to reconsider its decision in the light of additional information the Governor may possess or factors which the Governor considers are relevant.

It is hardly necessary to say here that, in order to ensure proper and transparent decision-making, the different stages of the aforesaid Procedure must remain independent of each other and there must not be any interference in the decision-making of the PDD by a person who is not a member of the staff of the PDD and there must not be any interference in the decision-making of the Tender Board by a person who is not a member of the Tender Board.

However, Mr. Mahendran has intervened and issued a direction to accept Bids to the value of Rs. 10.058 billion, at both of these stages – *ie*: (i) when he instructed the PDD to accept Bids to the value of Rs.10.058 billion, which resulted in the PDD making that recommendation to the Tender Board; and, (ii) when he instructed Deputy Governor, Samarasiri, who was the Chairman of the Tender Board, that Bids to the value of Rs.10.058 billion should be accepted.

Having worked at the CBSL and being an experienced Banker, Mr. Mahendran was undoubtedly aware of the Procedures that have been put in place by the PDD and Tender Board and the sound wisdom of these Procedures. In fact, when gave evidence, Mr. Mahendran admitted that, he was *“familiar with the internal procedures of the Central Bank.”*

Mr. Mahendran was undoubtedly aware that, he should not interfere in the decision-making process.

We also consider that, in view of the authority held by the Governor of the CBSL, Mr. Mahendran was also undoubtedly aware that, his instructions to accept Bids to the value of Rs. 10.058 billion was very likely to be obeyed by the staff of the CBSL.

In these circumstances, we hold that, Mr. Mahendran knowingly acted improperly and wrongfully, when he interfered in both decision-making processes and directed that, Bids to the value of Rs.10.058 billion be accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015;

- 2] We are of the view that, the evidence establishes that: (i) the PDD had intended to accept Bids only to the value of Rs. 2.608 billion at this Auction at a Weighted Average Yield of 10.7244 and, after the closure of the Auction, to raise the balance funds that were required on 02 March 2015, by way of Direct Placements; (ii) the PDD would have had no difficulty in raising these balance funds, by way of Direct Placements, on 02<sup>nd</sup> March 2015; (iii) in these

circumstances, there was no necessity for the CBSL to accept Bids to the value of Rs. 10.058 billion at the Treasury Bonds Auction held on 27<sup>th</sup> February 2015, especially since accepting Bids to the value of Rs. 10.058 billion resulted in accepting Bids at high Yield Rates and raising the Weighted Average Yield of 11.7270;

- 3] We are of the view that, the evidence establishes that, despite these circumstances, the CBSL accepted Bids to the value of Rs.10.058 billion at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and issued 30 Year Treasury Bonds to the Face Value of Rs. 10.058 billion at this Auction, only due to and as a direct result of Mr. Mahendran's aforesaid instruction;
- 4] We note that, it has been established that, no decision was taken at the "Breakfast Meeting" held on the previous day, to raise money for Road Projects at the Auction of Treasury Bonds held on 27<sup>th</sup> February 2015.

Thus, we find that, Mr. Mahendran's claim made to the PDD and Tender Board that, it was necessary to accept Rs. 10 Billion to meet additional Government fund requirements, is demonstrated to be false;

- 5] With regard Mr. Mahendran's second visit to the PDD when he directed that, Bids to the value of Rs. 10.058 billion be accepted, we find it disappointing that Deputy Governors Silva and Weerasinghe, who were very experienced officers of the CBSL and bore a responsibility to look after the interests of the CBSL, remained silent and did not counsel Mr. Mahendran to desist from that course of action or, at the very least, record their opposition to the direction he issued to the PDD

Further, both Deputy Governors would have been aware that, an Auction was underway when Mr. Mahendran invited them to accompany him to the PDD after the Corporate Management Committee meeting. They should have advised Mr. Mahendran at that time that, it was not proper for a Governor to visit the PDD during an Auction.

We are of the view that, the aforesaid passive attitude adopted by Deputy Governors Silva and Weerasinghe, amounts to negligence and a breach of their responsibilities as Deputy Governors of the CBSL;

- 6] With regard to Mr. Mahendran's intervention in the decision-making process of the Tender Board by instructing Deputy Governor Samarasiri that, Bids to the value of Rs. 10.058 billion should be accepted, we find it disappointing that, Deputy Governor Samarasiri who, as the Chairman of the Tender Board, had a duty to ensure that the Tender Board reached an independent and considered

decision, acted in gross breach of this duty and supinely obeyed the instructions given by Mr. Mahendran.

Mr Samarasiri's passivity negated the whole purpose for which the Tender Board was constituted. While we are aware that, a Governor of the CBSL holds a position of high authority in the eyes of the staff of the CBSL, we consider that, a Deputy Governor who is entrusted with the vitally important duty of chairing the Tender Board was required to ensure that, the Tender Board reached an independent and considered decision and not merely be the conduit and implementer of the instructions given by Mr. Mahendran to accept Bids to the value of Rs. 10.058 billion.

We are of the view that, the aforesaid conduct on the part of Deputy Governor Samarasiri amounts to gross negligence and a grave breach of his duties and responsibilities as the Chairman of the Tender Board and a Deputy Governor of the CBSL;

- 7] The evidence also establishes that, as a direct result of Mr. Mahendran's direction given to the PDD to accept Bids to the value of Rs. 10.058 billion, Perpetual Treasuries Ltd obtained Treasury Bonds to an aggregate value of Rs. 5 billion at Bid Prices ranging from 97. 87800 to 91.99280 and Yield Rates [Net of Tax] ranging from 11.5002 to 12.5009, at the Treasury Bond Auction held on 27<sup>th</sup> February 2015;
- 8] Since a perusal of the Bids Received Sheet marked "**C39B4**" shows that, Perpetual Treasuries Ltd would have 4 Bids to an aggregate value of Rs. 2 billion accepted if Bids to the value of Rs. 10.058 billion were accepted at the Auction held on 27<sup>th</sup> February 2015 and since Mr. Mahendran looked at this Bids Received Sheet prior to directing the PDD to accept Bids to the value of approximately Rs. 10 billion, Mr. Mahendran had to know that, as a result of his direction, Perpetual Treasuries Ltd would succeed in obtaining Treasury Bonds to the value of Rs. 2 billion at Yield Rates ranging from 11.5002 to 12.2499 and at Bid Prices ranging from 97.87800 to 91.99280.

These were attractive Yield Rates and Bid Prices for any Primary Dealer, at that stage of time.

Further, if Mr. Mahendran had known, at that time, that the Bid of Rs. 3 billion at a Yield Rate of 12.5009 and a Bid Price of 90.16990 placed by Bank of Ceylon had been made on behalf of Perpetual Treasuries Ltd, he would have also known that, Perpetual Treasuries Ltd would have obtained Treasury Bonds for another Rs. 3 billion at this very high Yield Rate and low Bid Price, as a result of his direction issued to the PDD.

In this connection, it is relevant to mention that, when Mr. Dharmapala, Chief Dealer of Bank of Ceylon gave evidence he said, he was amazed (“පුද්ගලයාට පත් වූවා”) when he saw the Yield Rate of 12.2499 and the other Yield Rates at which Perpetual Treasuries Ltd had asked Bank of Ceylon to place Bids on behalf of Perpetual Treasuries Ltd and that he did not think these Bids would be accepted [“පිලිගත නොහැකි බවයි.”].

Mr. Dharmapala, who is an experienced Dealer testified that, he thought that a Yield Rate of 10.25 would be a high Yield Rate if accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015. In fact, he is recorded as commenting to the representative of Ceylinco Insurance Corporation, during the telephone conversation recorded in the Audio Recording marked “C133C”, that a Yield Rate of 10.25 would be attractive if it was accepted and Mr. Dharmapala has used phrase, “ආවේණි ඇත” to describe a Bid that was accepted at a Yield Rate of 10.25.

We note that, the evidence before us clearly establishes that, there was no necessity to accept Bids to the value of Rs. 10.058 billion at this Auction since any balance funds that were required after the Auction held on 27<sup>th</sup> February 2015 was concluded, could have been easily raised by way of accepting Direct Placements, in line with the then established practice of the PDD. We also note that, there were other modes of raising funds on a short terms basis, which were available to the PDD.

In these circumstances and having considered the totality of the evidence, we determine that, Mr. Mahendran directed that Bids to the value of Rs. 10.058 billion be accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015, for the improper and wrongful collateral purpose of enabling Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds at that Auction, at low Bid Prices and high Yield Rates.

It hardly needs to be said here that, a Governor of the CBSL who directs that, Bids be accepted to a particular value at a Treasury Bond Auction in order to enable a particular Primary Dealer to obtain a quantity of Treasury Bonds at that Auction, will be acting not only wrongfully and improperly but also *mala fide*, fraudulently and in gross breach of his duties as Governor of the CBSL;

- 9] We note that, Perpetual Treasuries Ltd has, on its own account and through Bank of Ceylon, placed Bids for an aggregate sum of Rs. 15 billion at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 even though only Rs. 1 billion was offered at that Auction - ie: 1500% of the value of Rs. 1 billion that was offered at the Auction.

The evidence before us establishes that, prior to 27<sup>th</sup> February 2015, Perpetual Treasuries Ltd had never placed Bids for such a high percentage of the value of the Bids offered at a Treasury Bonds Auction.

It is *ex facie* reasonable to conclude that, in a Market where the PDD was well known to usually accept only about 2-3 times the value of the Bids offered at an Auction, the only reason why Perpetual Treasuries Ltd would place Bids for an unprecedented value of Rs. 15 billion at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 [at which only Rs. 1 billion had been offered] would be, if Perpetual Treasuries Ltd had information that, the PDD was likely to accept a very high value of Bids at that Auction.

We consider that, in this background: (i) Mr. Mahendran's extraordinary and unprecedented intervention in the Auction where he first suggested to the PDD that Bids to the value of Rs. 20 billion be accepted [which, if implemented would have resulted in all the Bids placed by or on behalf of Perpetual Treasuries Ltd being accepted] and then directed that Bids to the value of Rs. 10.058 billion be accepted; and (ii) the fact that, at the same time, Perpetual Treasuries Ltd took the also extraordinary and unprecedented step of placing Bids to the aggregate value of Rs. 15 billion at this same Auction; when taken together, raise a strong inference that, Perpetual Treasuries Ltd had "inside information" [or "price sensitive information"] that, a very large amount of Bids would be accepted at that Auction.

In this connection, when the Commission of Inquiry asked Deputy Governor, Samarasiri as to whether "*..... are you personally aware that anybody outside the Public Debt Department knew that on the 27<sup>th</sup> of February, more than one billion would be accepted ?*", Mr. Samarasiri replied, "*I can't say who but looking at the bid pattern I examined the bid Pattern later. From that I understood there were.*".

When the Commission of Inquiry asked Deputy Governor, Samarasiri, "*..... now you had much time to think about it. You are convinced that the bid pattern are such that on 27<sup>th</sup> of February that some people, unknown people had prior knowledge.*". Mr. Samarasiri replied, "Yes."

When the Commission of Inquiry asked Deputy Governor, Samarasiri "*When you look at the bid sheet any person with experience according to you with knowledge and intelligence would conclude there has been some people whoever they may be had prior knowledge that much more than one billion rupees would be accepted ?*", Mr. Samarasiri replied, "Yes."



In this connection, we also note that, Mr. Dharmapala, Chief Dealer of the Bank of Ceylon stated that, after the results of the Auction were known, he felt that Perpetual Treasuries Ltd had received some “inside information” which caused Perpetual Treasuries Ltd to place Bids to a value of Rs.15 billion when only Rs. 1 billion was offered.

He added that the Public Debt Department usually accepted only 2 to 3 times the amount offered. In this connection, in response to a question from the Commission of Inquiry he stated, “*Perpetual Treasuries වලින් ලංසු ඉදිරිපත් කලේ කසුන් පලිසේන. යම් ආකාරයෙන් එම ආයතනයට යම් තොරතුරක් ලැබෙන්න ඇද්දැයි Perpetual Treasuries වලට යම් තොරතුරක් ලැබී ඒ නිසා ඔවුන් මේ ආකාරයෙන් බිඬි කලාද කියලා පස්සේ මට හිතනා.*” .

Mr. Dharmapala added, “*ස්වාමීනි, මේ වෙලදපොලේ සිටින වෙලෙන්දන් කටයුතු කරන්නේ තමන්ට ලැබෙන තොරතුරු පදනම් කරගෙන. විශේෂයෙන් දැන් රජයේ මූල්‍ය අවශ්‍යතාවය ඉතා විශාල එකක් නම්, ඒ විශාල මුදල් අවශ්‍යතාවයක් ඉතා ඉක්මණින් තිබේ යයි යම් කෙනෙකුට යම් තොරතුරක් ලැබුනොත් එහෙම ඒ කිට්ටුවෙන් තිබෙන්නාවූ කිට්ටුවෙන් ඉදිරිපත් කරන්නාවූ වෙන්දේසි සම්බන්ධයෙන් ඒගොල්ලො හිතනවා මේ සැරේ මේ වෙන්දේසියෙන් වැඩි ප්‍රමාණයක් මිලදී ගනු ඇතැයි කියන එක.*”.

When Mr. Kasun Palisena, Chief Executive Officer of Perpetual Treasuries Ltd gave evidence before us, he was unable to present any convincing *bona fide* reason for the extraordinary and unprecedented value of Bids placed by Perpetual Treasuries Ltd at the Treasury Bond Auction held on 27<sup>th</sup> February 2015.

In the aforesaid circumstances and in the light of the evidence before us, we are of the of the view that, Perpetual Treasuries Ltd had “inside information” [or “price sensitive information”] that, Bids to a very high value would be accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 even though only a sum of Rs. 1 billion had been offered at the Auction;

- 10] As stated in the preceding paragraph, we have concluded that, Perpetual Treasuries Ltd acted upon “inside information” [or “price sensitive information”] when it placed Bids for an unprecedented value of Rs. 15 billion at an Auction at which only Rs. 1 billion had been offered.

The evidence conclusively establishes that, Bids to the very high value of Rs. 10.058 billion were accepted solely due to the instruction given by Mr. Mahendran.

Mr. Mahendran was the only person who could have known that he would issue this instruction on 27<sup>th</sup> February 2015, around noon after the Auction closed.



In these circumstances, we consider it reasonable to infer that, Mr. Mahendran was the source from which Perpetual Treasuries Ltd obtained this “inside information” [or “price sensitive information”].

The fact that, Mr Arjun Aloysius, who is effectively the key decision maker at Perpetual Treasuries Ltd, is the son-in-law of Mr. Mahendran and they both live in the same house, makes that inference stronger.

It hardly needs to be said here that, a Governor of the CBSL who divulges or provides “inside information” [or “price sensitive information”] to a Primary Dealer and, thereby, enables that Primary Dealer to benefit from that “inside information” [or “price sensitive information”] and obtain a very high value of Treasury Bonds at an Treasury Bond Auction, will be acting wrongfully, improperly, *mala fide*, fraudulently and in gross breach of his duties as Governor of the CBSL.

- 11] For the aforesaid reasons, we hold that, Mr. Mahendran acted wrongfully, improperly, *mala fide*, fraudulently and in gross breach of his duties as Governor of the CBSL when: (i) he instructed that, Bids to the value of Rs.10.058 billion be accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 for the improper and wrongful collateral purpose of enabling Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds at that Auction at low Bid Prices and high Yield Rates; and (ii) when Mr. Mahendran provided “inside information” [or “price sensitive information”] to Perpetual Treasuries Ltd that, Bids to a very high value would be accepted at that Treasury Bond Auction even though only a sum of Rs. 1 billion had been offered at the Auction;
- 12] For the aforesaid reasons, we further hold that, Mr. Mahendran committed the aforesaid wrongful, improper, *mala fide* and fraudulently acts which were in gross breach of his duties as Governor of the CBSL with the knowledge of and acting in collusion with Perpetual Treasuries Ltd.

#### **Section 19.2.6 - The Decision to stop Direct Placements**

As stated earlier, the PDD had been accepting Direct Placements from the year 2008 onwards. As set out in “**C54**”, by February 2015, over 90% of the funds raised by the issue of Treasury Bonds were obtained by accepting Direct Placements. In these circumstances, the practice of the PDD accepting Direct Placements was entrenched in the Market. Dealers expected the PDD to continue to accept Direct Placements and expected that, the quantum of funds raised by way of the Auctions of Treasury Bonds would constitute a relatively small proportion of the total fund requirement.

The PDD was proficient in and relied on the method of accepting Direct Placements to raise Public Debt.

We have earlier commented on the fact that, the method of accepting Direct Placements had several detrimental features. But, that does not take away the fact that, in February 2015, Direct Placements were the primary method of raising Public Debt by the issue of Treasury Bonds.

Prior to 27<sup>th</sup> February 2015, the Monetary Board had not discussed any change to this practice and certainly no decision had been arrived at, to do away with it. This fact is established by the evidence including the Minutes of the meetings of the Monetary Board which have been produced in evidence, the evidence of Ms. Ramanathan, appointed member of the Monetary Board and the evidence of Deputy Governor, Samarasiri.

It is also evident to us that any proposal to suspend or stop the practice of Direct Placements would have to be taken by the Monetary Board, which by operation of Section 8 of the Monetary Law Act, is the sole body vested with the power to determine the Policies or Measures adopted by the CBSL.

The Monetary Board certainly cannot in law, and had not delegated the power or authority to suspend or stop the acceptance of Direct Placements to the Governor, in February 2015.

Further, the evidence before us also establishes that, prior to 27<sup>th</sup> February 2015, the Monetary Policy Committee, the PDD or any other Department of the CBSL had not conducted any Study relating to a proposal to suspend or stop Direct Placements and there had not been any assessment of the effect which a sudden suspension or stoppage of Direct Placements would have on the Market and the ability of the PDD to successfully raise Public Debt at acceptable costs.

These are the circumstances that prevailed when Mr. Mahendran visited the PDD on 27<sup>th</sup> February 2015.

Dr. Aazim stated that during Mr. Mahendran's first visit to the PDD on 27<sup>th</sup> February 2015, Mr. Mahendran had referred to the *"modality of funding we practice at present."* - ie: Auctions and Direct Placements - and mentioned *"his preference for auctions, Sir, based financing."* Dr. Aazim said that, Mr. Mahendran also mentioned *"..... some discussions Sir. And they prefer auction based finance."*

Dr. Aazim stated that during Mr. Mahendran's second visit to the PDD Mr. Mahendran had *".....also mentioned at this point that we could move away from direct placements methodology....."*. At this point, the Commission of Inquiry questioned Dr. Aazim about

the nature of statements made by Mr. Mahendran, at the PDD, with regard to “moving away” from Direct Placements. Dr. Aazim said that he did not regard this statement as being merely a “casual comment”. When the Commission of Inquiry then asked Dr. Aazim whether Mr. Mahendran had given a “Direction”, the witness replied, “He basically suggested.” and “He mentioned in the Public (Debt) Department itself that this is the point we can move away from Direct Placements.”. When the Commission of Inquiry then asked Dr. Aazim whether he had informed the Tender Board that Mr. Mahendran had given verbal “instructions to stop Direct Placements” on 27<sup>th</sup> February 2015, the witness replied in the affirmative.

Ms. Seneviratne said that during Mr. Mahendran first visit to the PDD on 27<sup>th</sup> February 2015, Mr. Mahendran said, “And he mentioned another point saying that now the Public Debt Department has to conduct market based auction system without using this alternate arrangements like direct placements.” When learned Additional Solicitor General asked her whether Mr. Mahendran said that from then on, the PDD should not accept Direct Placements, Ms. Seneviratne replied, “That time he just said. Firmly he didn’t say he said public debt department should start.”.

Ms. Seneviratne said that during Mr. Mahendran’s first visit to the PDD on 27<sup>th</sup> February 2015, Ms Seneviratne said that, when the officers of the PDD told Mr. Mahendran that, if only the sum of Rs 2.608 billion which had then been recommended by the PDD was accepted, the balance funds required could be raised by way of Direct Placement, Mr. Mahendran replied, “..... that time he said this is the best time to stop this alternative arrangements like direct placements you can start conducting bond auctions through market based.”. Ms. Seneviratne said that, later, Mr. Mahendran “..... He firmly said you can’t do this direct placements hereafter.”.

Mr. Ratnayake stated that, during the meeting of the Tender Board held on 27<sup>th</sup> February 2015, the officers of the PDD officers conveyed to the Tender Board that the acceptance of Direct Placements had been “temporarily suspended”. In this connection, in response to a specific question from the Commission of Inquiry asking whether the officers of the PDD had said that, Direct Placement had been “stopped” on 27<sup>th</sup> February 2015, Mr. Ratnayake replied, “No. Actually that decision conveyed to us was direct placement whether it is Treasury Bills or Treasury Bonds temporarily suspended.”. In response to a further question from the Commission of Inquiry as to whether, “So on the 27<sup>th</sup> of February 2015 your evidence is that at the tender board it was conveyed to you that direct placements had been temporarily suspended?”, Mr. Ratnayake replied, “Yes.” .

When Mr. Mahendran testified before the Commission of Inquiry, he did not dispute the fact that he had given these instructions to the officers of the PDD. In fact , when

Mr. Romesh De Silva, PC asked, *“Now, so, on the 27<sup>th</sup> afternoon after the bids came in, you decided that the public auctions should be preferred method or should the method in respect of the sale of issuance of Treasury Bonds ?”*, Mr. Mahendran replied, *“Yes, Your Honour.”*

Mr. Mahendran also stated that, at the next meeting of the Monetary Board held on 06<sup>th</sup> March 2015, he had explained to the Monetary Board that, the process of Direct Placements had been unsuccessful in raising the large volume of money needed and that he felt that, *“private placements were not doing their job. And along with that I have several reservations, about the private nature of those transactions which were outside the public purview, which meant that the interest rate structure in the country was being distorted and this would have severe negative implications in terms of what we call, “financial repression” in academic literature in Economics.”*. The Minutes of that meeting have been marked **“C60B9(ii)”**.

Mr. Mahendran stated that the Monetary Board agreed with him at the meeting held on 06<sup>th</sup> March 2015. However, we note that, the Minutes do not state that, the Monetary Board *“ratified”* the aforesaid decision taken by Mr. Mahendran.

The evidence before us makes it clear that, on 27<sup>th</sup> February 2015, Mr. Mahendran directed that, the PDD forthwith ceases accepting Direct Placements of Treasury Bonds. This direction may have been in the nature of a “suspension” of the acceptance of Direct Placements, as stated in the aforesaid Minutes marked **“C60B9(ii)”**. or a permanent “stoppage” of Direct Placements.

Although the direction given by Mr. Mahendran on 27<sup>th</sup> February 2015 to the officers of the PDD is recorded as a “suspension” of the acceptance of Direct Placements, in the Minutes marked **“C60B9(ii)”**, the evidence establishes that, the CBSL did not accept any Direct Placements during Mr. Mahendran’s tenure as Governor other than in a few instances where the Department of Treasury Operations Government needed funds to meet specific requirements of the Government which were raised by issuing Treasury Bonds to a State Bank.

It hardly needs to be pointed out here that, the sudden suspension or stoppage of Direct Placements had a significant impact on the Market when news of that decision reached the Market.

The fact that, this decision withdrew the main method of issuing Treasury Bonds relied on by the CBSL for many years and required the CBSL to issue Treasury Bonds only at Auctions from then on, placed the CBSL in a position in which, whenever the CBSL needed to raise funds by way of Treasury Bonds, it had to do so at Yield Rates which

were determined by the Market. The CBSL lost the option of using Direct Placements to influence or control these Yield Rates.

In short, this decision placed the CBSL in a situation where it became entirely dependent on the Yield Rates determined by Market Forces when issuing Treasury Bonds.

While this may be, in theory, desirable, it was advisable for the CBSL to retain the option of accepting Direct Placements whenever it became necessary to do so in order to manage the cost of raising Funds or to adjust the maturity schedule of Treasury Bonds.

Mr. Nihal Fonseka, who is an appointed member of the Monetary Board stated to us, that, since Central Banks usually wish to preserve the ability to shape the profile of Public Debt, most Central Banks issue Treasury Bonds both by way of Auction and by way of accepting Direct Placements or a similar method, In this connection, Mr. Fonseka testified that, many Central Banks do not rely solely on Auctions when issuing Treasury Bonds.

In fact, the CBSL has recently introduced, after a long period of careful study and analysis, a new System for the issue of Treasury Bonds which incorporates both Auctions and a version of Direct Placements.

In this connection, we should mention here that, when Dr. Aazim was questioned with regard to a decision to stop Direct Placements in the context of the Medium Term Debt Management Strategies [MTDS] of the CBSL, he said “ *That is that (if) you are having a auction based financing means you have to meet the quantum that you wanted to require for a particular period from the auction alone, when you have flexibility in terms of deciding between an auction and a placement, of course you have the flexibility in the event the markets developments are not in line with the expected direction specified in the MTDS or for that matter for that financial year’s borrowing programme that Central Bank would prefer to execute. You have a fall back to raise funds through a Direct Placement arrangement. And also when you have an arrangement like that the offering of securities also become flexible because in the case of placement window you select securities which has certain space in terms of how much already issued. We don’t necessarily look at huge volumes we call it bunching concerns.*” Dr. Aazim added, “*We can spread it out we can pick securities where you have sufficient space to issue further. So these flexibilities were provided in an environment where you have broader issuance methodology that (than) you are restricting yourself to some extent into a one arrangement of mobilizing funds.*”



In this connection, we also note that, when learned Senior State Counsel asked Dr. Wijewardena what the effect of a sudden removal of Direct Placements would be, Dr. Wijewardena said, *“A sudden change would have shocked the market and as a result there are unintended consequences and we have already seen that. So any change into a pure auction system should have been done gradually without making a announcement that from such and such day onwards there are no direct placements by the Central Bank.”*. He continued to say, *“Your Honour what would happen is that when the Central Bank loses one important policy instrument available to it is actually its at the risk of being vulnerable to market manipulators because the auction system allows the market manipulators to increase the interest rates to their own advantage. Now when the direct placement instrument was taken out the Central Bank the Monetary Board has no way of controlling that. So therefore it actually dilutes the monetary board’s power to control the interest rates structure in the country.”*.

When the Commission of Inquiry asked Dr. Wijewardena, *“So given your earlier view that over reliance on direct placements was not a good thing because it sort of doesn’t let the market find its correct rate, how would you have phased it out or struck a greater balance?”*, he replied, *“Your Honour by gradually make the you allow 10 percent, 90 percent, 80 percent 20 percent like that gradually you would have taken it out but of course in my opinion taking it out completely is again is not a good decision.”*.

In response to the question by the Commission of Inquiry whether he *“would have recommended a mix.”*, Dr. Wijewardena stated, *“Mix. Continuation of the mix. But of course using direct placements as sparsely as possible.”*.

When the Commission of Inquiry asked further, *“So basically what you are saying is you would have preferred a more auction oriented way of raising funds with the use of direct placements”*, he replied *“As a controlling measure.”*.

In response to a question from the Commission of Inquiry, *“So would you then say it is essential that the Central Bank retains ability to use direct placements to a certain extent where necessary?”*, Dr. Wijewardena replied, *“It is essential Your Honour because the direct placement system is used by all the countries in the world. Its not only Central Bank of Sri Lanka”*.

When learned Senior State Counsel asked Dr. Wijewardena to sum up his understanding the direct impact of a sudden decision to stop Direct Placements, , he stated, *“Number one is that the Central Bank lost a very powerful weapon, number two it allowed the primary dealers to manipulate interest rates, number three the Government was losing money. Those are the three repercussions.”*.

As stated earlier, the PDD had intended to accept Bids to the value of Rs. 2.608 billion at the Auction held on 27<sup>th</sup> February 2015, as set out in the Option Sheet marked

“C39B5” and then raise, by accepting Direct Placements, the balance funds required on 02<sup>nd</sup> March 2015.

However, as a result of the direction issued by Mr. Mahendran on 27<sup>th</sup> February 2015 to suspend or stop accepting Direct Placements, the PDD did not have the option of resorting to Direct Placements to raise any further part of the sum of Rs. 13.55 billion which was needed on 02<sup>nd</sup> March 2015.

Therefore, the CBSL was compelled to accept Bids to value of Rs. 10.058 billion, [which was the balance of the requirement of this sum of Rs. 13.55 billion] to meet the fund requirement of the Department of Treasury Operations on 02<sup>nd</sup> March 2015.

Finally, in the course of his evidence, Mr. Mahendran claimed that, the Hon. Prime Minister had told him that, “..... *the the new Government was committed to transparency. And they said that I should ensure that all procurements of the Central Bank should be done in a transparent manner. Whether it was a procurement of treasury bonds on behalf of the Government or the procurement of any other equipment for the Central Bank etc. that the new norm has to be transparent.*”.

We note that, the Hon. Prime Minister has made it very clear in his evidence before us that, the Hon. Prime Minister only asked Mr. Mahendran to “*consider*” issuing Treasury Bonds by way of Auctions and that, the Hon. Prime Minister “*expected he [ie: Mr. Mahendran] would comply with due procedure*” and also that, “*In the circumstances, it was expected that Mr. Mahendran would take appropriate steps in accordance with due procedures to give effect to the objectives of the Government as expeditiously as possible.*” The Hon. Prime Minister has also said that, “*My primary concern was to ensure that Treasury Bonds are raised mainly on public auctions. The proportions of public auctions and private placements with captive funds was a matter for the Governor to decide as it involves technical issue which, in my opinion, is a matter to be decided by experts.*”. The Hon, Prime Minister has unequivocally stated, “*In this regard the due procedure I expected Mr. Mahendran to follow was to work within the rules and guidelines set by the Monetary Board and follow best practices relating to the running of a Central Bank. Beyond this, I was not expecting to give any instructions or exercise any supervisory role.*”

Thus, the evidence establishes that, Mr. Mahendran had not been instructed or directed by the Hon. Prime Minister to act unilaterally and immediately suspend or stop Direct Placements on 27<sup>th</sup> February 2015 without first going through the due Procedure - *ie:* studying the issue and assessing the effect a suspension or stoppage of Direct Placements will have and, thereafter, if a decision was taken to stop or suspend Direct Placements, drawing up a considered plan of the manner in which such a decision was to be implemented and to then obtain the approval of the Monetary Board to do so.



In any event, we note that, the Hon. Prime Minister, though he was the Minister of the National Policies and Economic Affairs under which the CBSL is placed, had no authority to issue a directive to the CBSL to stop the acceptance of Direct Placements. That was a decision which falls solely within the authority of the Monetary Board. The Hon. Prime Minister only had the authority to request the Monetary Board to consider and implement to the Government's policy with regard to the issue of Treasury Bonds. Thereafter, the decision on what actions to take, if any, lies solely within the province of the Monetary Board, under and in terms of the Monetary Law Act. Mr. Mahendran was undoubtedly aware of this.

In the light of the aforesaid evidence, we reach the following determinations:

1. Mr. Mahendran acted improperly and in excess of his authority when he unilaterally and without the prior approval of the Monetary Board, directed the suspension or stoppage of Direct Placements with immediate effect from 27<sup>th</sup> February 2015;
2. Mr. Mahendran acted irresponsibly and, in fact, recklessly, when he suddenly directed the suspension or stoppage of Direct Placements on 27<sup>th</sup> February 2015, without having first instructed the relevant Departments of the CBSL to study and report on the workings of the system of Direct Placements and ascertain the effect which a suspension or stoppage of Direct Placements would have on the Market and determine the manner in which any proposed suspension or stoppage of Direct Placements should be implemented;
3. The sudden removal had a significant impact on the Market, which by then was well used to the entrenched practice of CBSL issuing Treasury Bonds through the Direct Placements window.

In fact, the evidence establishes that, the cumulative result of the sudden suspension or stoppage of Direct Placements and the acceptance of Rs. 10.058 billion at high Yield Rates of up to 12.5009 and at a Weighted Average Yield Rate [Net of Tax] of 11.7270% at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 coupled with the removal of the Two-Tier Interest Structure of the overnight Standing Deposit Facility on the same day, resulted in the rise in Treasury Bond Yield Rates and a corresponding rise in Interest Rates, for a period of time. However, following the decision taken by the Monetary Board, on 11<sup>th</sup> April 2015, to reduce the Interest Rates applied on the overnight Standing Deposit Facility and the overnight Standing Lending Facility, Interest Rates and Yield Rates reduced to an extent;

4. As a result of the suspension and stoppage of the Direct Placements from 27<sup>th</sup> February 2015 onwards, the CBSL had no option, but to resort to Auctions whenever it needed to issue Treasury Bonds, and raise Public Debt.

This resulted in the CBSL being solely dependent on the Yield Rates determined by the Market when the CBSL raised funds by way of Treasury Bonds;

5. Thus, Mr. Mahendran's act of suddenly directing the suspension or stoppage of Direct Placements on 27<sup>th</sup> February 2015, has caused grave prejudice to the Government and the CBSL ability to raise Public Debt at the "*lowest possible cost*" as the PDD is required to do in terms of the Operational Manual of the PDD;

In this connection, although on more than one occasion after 27<sup>th</sup> February 2015, the Monetary Board discussed whether Direct Placements should be resorted to on a limited basis, the CBSL did not reintroduce the acceptance of Direct Placements during the entire period Mr. Mahendran's tenure as the Governor. Instead, the CBSL was able to raise the required funds by issuing Treasury Bonds at Auctions and by means of issuing other Government Securities albeit at the Rates that were determined by those processes.

We also note that, even though, after Dr. Indrajith Coomaraswamy assumed office as the Governor and the Monetary Board considered the re-introduction of a type of Direct Placements in July 2016, the CBSL considered it possible and advisable to introduce a new system of issuing Treasury Bonds, which uses the Auction method as the first "phase" of issuing Treasury Bonds and includes accepting a type of "Direct Placements" as a possible later "phase" in specified circumstances, only more than one year later - *ie*: in July 2017.

This fact highlights the complexity of the issues involved and the numerous factors and considerations which must be taken into account when evaluating the relative merits and demerits of Auctions *vis-à-vis* Direct Placements including the comparable costs of raising Public Debt under the two methods of raising Public Debt.

In these circumstances, we are of the view that, although the aforesaid prejudice caused to Government and the CBSL by Mr. Mahendran's act of suddenly directing the total suspension or stoppage of Direct Placements on 27<sup>th</sup> February 2015, is bound to be very substantial, we do not consider that a monetary loss can be reliably computed due to the many variables and due to the numerous intervening circumstances which have occurred since 27<sup>th</sup> February 2015.

5. Here again, Deputy Governors Silva and Weerasinghe were negligent and failed to fulfill their responsibilities as Deputy Governors by remaining silent when they heard the direction issued by Mr. Mahendran to suspend or stop Direct Placements. Deputy Governors Silva and Weerasinghe were duty bound to advise Mr. Mahendran that, it was not advisable to suddenly stop the practice of accepting

Direct Placement. If their advice was disregarded by Mr. Mahendran and he, nevertheless, insisted on issuing that direction, Deputy Governors Silva and Weerasinghe should have recorded their opposition.

**Section 19.2.7 - The Meeting of the Monetary Board held on 06<sup>th</sup> March 2015**

At the meeting of the Monetary Board held on 06<sup>th</sup> March 2015, the Monetary Board was informed of the fact that, the Two-Tier Interest Structure of the overnight Standing Deposit Facility had been dispensed with on 7<sup>th</sup> February 2015 and that, the Interest Rate of 5% *per annum* which had been paid on the second or lower Tier, was no longer applied on any Deposits made to the overnight I Standing Deposit Facility.

The Monetary Board considered a Board Paper submitted by the Department of Economic Research and marked “**C60B9(i)**”, which set out the following reasons for this decision:

1. In September 2014, the Monetary Board decided to introduce the Two-Tier Interest Structure to encourage Commercial Banks to use the excess liquidity then in the Market to increase the quantum of Credit to the Private Sector at reasonable Interest Rates;
2. As a result of the introduction of the Two-Tier Interest Rate Structure, Interest Rates had dropped with most Interest Rates reaching “*historic low levels*”;
3. Since then, there has been an acceleration in the growth of Credit granted by Commercial Banks to the Private Sector;
4. The recent indications of sustained increases in Credit Flows to the Private Sector, the Two-Tier Interest Rate Structure was no longer required to be applied to the overnight Standing Deposit Facility.

The Monetary Board ratified this decision and stated, as set out in the extract from the Minutes of the meeting held on 06<sup>th</sup> March 2015 and marked “**C60B9(ii)**”:

*“3.1. The Board having considered the paper observed that the objective of introducing the Special Standing Deposit Facility Rate of 5 per cent to encourage private credit has now been achieved as indicated by the increased growth of private credit at 11.5 per cent in January 2015 and, therefore, it is now desirable to stabilize the overnight call money rate*

*back within the normal policy rates corridor. Accordingly, the Board ratified the withdrawal of the Special Standing Deposit Facility Rate of 5 per cent by the Central Bank with effect from 02 March 2015.”.*

Mr. Mahendran also informed the Monetary Board of the decision taken on 27<sup>th</sup> February 2015, taken to suspend or stop Direct Placements.

In this connection, the extract from the Minutes of the meeting held on 06<sup>th</sup> March 2015 and marked “**C60B9(ii)**” states:

3.3. *The Chairman informed the Board that the Central Bank temporarily suspended the method of direct placements of Treasury bills and Treasury Bonds used to raise funds for the Government with a view to move towards a greater market mechanism based on standard auction system followed alternatively at present. Accordingly, the Central Bank at the 30 year Treasury bond auction held on 27<sup>th</sup> February 2015 decided to accept Rs. 10 billion out of Rs. 20 billion worth bonds received for Rs. 1 billion announced to the market for bids in order to meet the Government’s funding requirement only from the open market bids.”.*

**Section 19.2.8 - The Hon. Prime Minister’s Statement in Parliament on 17<sup>th</sup> March 2015**

The CBSL is a subject assigned to the Hon. Prime Minister in his capacity as the Minister of National Policies and Economic Affairs.

On 17<sup>th</sup> March 2015, the Hon. Prime Minister made a Statement in Parliament with regard to the issue of Treasury Bonds, the Auction of Treasury Bonds held on 27<sup>th</sup> February 2015 and other matters. A copy of the section in the Hansard which contains this statement was produced marked “**C36**”. The Statement is under the Heading: “TREASURY BONDS: STATEMENT BY THE HON. PRIME MINISTER”

During the course of this statement, the Hon. Prime Minister has, *inter alia*, stated that, the method of raising funds by the acceptance on Private Placements [Direct Placements] of Treasury Bonds used by the CBSL during the past years, has led to corruption and a lack of transparency and stated that, he had insisted that, Treasury Bonds be issued by way of Public Auctions rather than by way of Direct Placements.

With regard to the Auction of Treasury Bonds held on 27<sup>th</sup> February 2015, the Hon. Prime Minister has, *inter alia*, stated that: Mr. Mahendran had only advised the Public

Debt Department, in the presence of two Deputy Governors, that, Bids up to Rs. 10 billion should be accepted; and that the allegations that Mr. Mahendran interfered in the decisions of the PDD and the Tender Board were factually incorrect.

The Hon. Prime Minister further stated, *inter alia*, that, in view of the allegations made with regard to “insider trading” and other allegations concerning the Auction held on 27<sup>th</sup> February 2015, he had appointed a three-person Committee to inquire in to this incident.

The Hon. Prime Minister undertook to submit the Report of this Committee to Parliament so that, thereafter, Parliament could decide what should be done by referring this matter to a Select Committee of Parliament to inquire into and report on or by way of other action that Parliament considered appropriate.

During his statement, the Hon. Prime Minister also stated that, Mr. Mahendran would be on leave from the CBSL until the Report of the three-person Committee was submitted and was considered.

The Commission of Inquiry considered it necessary, to ascertain from the Hon. Prime Minister, the background in which he made some of the statements he made in Parliament on 17<sup>th</sup> March 2017 and the information he used to substantiate these statements.

In order to do so, the Commission of Inquiry formulated eleven Questions to ascertain from the Hon. Prime Minister, the background to some of the matters he referred to in the course of this statement and the information he used to substantiate some of the statements he made.

These eleven Questions were among the 28 Questions, in the nature of Interrogatories as contemplated in Part XVI of the Civil Procedure Code, to which the Hon. Prime Minister furnished his Answers by way of the Affidavit dated 20<sup>th</sup> October 2017.

The eleven Questions formulated by the Commission of Inquiry which relate to the aforesaid statement made by the Hon. Prime Minister in Parliament and which were answered by the Hon. Prime Minister by way of his Affidavit dated 20<sup>th</sup> October 2017 are Questions No. s [8], [9], [10], [11], [14], [15], [16], [17], [18], [19] and [20].

We will now set out those Questions and the Hon. Prime Minister’s Answers to those Questions, as set out in the Affidavit dated 20<sup>th</sup> October 2017 affirmed to by him.

Question No. [8]

*“Mr. Mahendran has testified before this Commission of Inquiry that, in January 2015 and February 2015, he had conveyed to you alleged unsatisfactory features in the then prevailing practice of the CBSL raising funds by way of “Private Placements” [also*

sometime termed “Direct Placements”] of Treasury Bonds. Is Mr. Mahendran’s aforesaid statement correct ?”

Hon. Prime Minister’s Answer

*The unsatisfactory features in the practice of CBSL raising funds by way of private placements was a matter of grave concern and severe criticism during the tenure of office of the previous Government. This issue had been raised in the public domain by civil society and had been the subject of discussion in Parliament. It was alleged that the favorites of the then Government had been given an opportunity by reason of the acceptance of private placements of making unconscionable profits as there was no transparent selection of the beneficiaries. With the formation of the new Government in January 2015, this subject was discussed at several Ministerial meetings at which relevant officials were present. Mr. Mahendran was also present at some of these meetings and he too agreed that the system of resorting to private placements was unsatisfactory.”’.*

Question No. [9]

*“Mr. Mahendran testified before this Commission of Inquiry that, sometime in early February 2015, you instructed him that, all procurements made by the CBSL should be carried out “in a transparent manner”.*

- i. Is Mr. Mahendran’s aforesaid statement correct ?*
- ii. If the answer to Question [9](i) is in the affirmative, did such instructions given by you also apply to the raising of Public Debt by the Public Debt Department ?*
- iii. If the answer to Question [9](ii) is in the affirmative, what did you intend to convey when you instructed that the raising of Public Debt by the Public Debt Department should be carried out “in a transparent manner” ?”*

Hon. Prime Minister’s Answer

- i. Yes. This was applicable not only to CBSL but also to all Departments and Institutions under the purview of my Ministry.*
- ii. Yes. As I stated above, the raising of funds by way of private placements of Treasury Bonds had been subject to severe criticism as it was completely devoid of any transparency. The Monetary Board had authorized the issuance of Treasury Bonds either by way of private placements or by way of public auctions. It was the view of all concerned in the new Government that in order to achieve more transparency the raising of funds by way of Public Auction was preferable to the private placement method. This view was conveyed to Mr. Mahendran.”.*



Question No. 10

*“Mr. Mahendran has subsequently claimed before this Commission of Inquiry that on 24<sup>th</sup> February 2015, you instructed him that, the practice of accepting Private Placements of Treasury Bonds should be stopped. Mr. Mahendran went on to suggest that, he interpreted that alleged instruction to mean he should immediately stop the practice of accepting Private Placements of Treasury Bonds.*

*Did you, in fact, instruct Mr. Mahendran, on 24<sup>th</sup> February 2015, to immediately stop the practice of accepting Private Placements of Treasury Bonds ?”.*

Hon. Prime Minister’s Answer

*As I stated earlier, the acceptance of private placements of Treasury Bonds was regarded as unsatisfactory primarily due to lack of transparency. In addition, the policy of the new Government was that the rates of exchange and of interest should be determined by market forces, and not be pegged down artificially. It was for these reasons that we advocated that Treasury Bonds be accepted mainly through Public Auction. Mr. Mahendran as the Governor of CBSL was aware of this. At that time the practice was for majority of the bonds to be issued by recourse to private placements and the balance by Public Auction. Therefore, in February 2015 when I was informed that the CBSL was to issue bonds to raise funds, I insisted that Mr. Mahendran should consider the issuance of Bonds by way of Public Auction in accordance with the economic policy of the Government and I expected that he would comply with the due procedure.”.*

Question No. [11]

*“The evidence before this Commission of Inquiry suggests that, any sudden stoppage of the practice of accepting Private Placements of Treasury Bonds was likely to significantly impact the Government Securities Markets, the Treasury Bond Yield Curve and Interest Rates paid and offered by Bank, especially since, by February 2015, the practice of the CBSL accepting Private Placements of Treasury Bonds had become entrenched in the Government Securities Market and Private Placements accounted for over 80% Public Debt raised by way of Treasury Bonds during the period of two years or so. Further, the evidence before this Commission of Inquiry suggests that, in terms of the Monetary Law Act and the procedures which then prevailed in the CBSL, any proposal to stop the entrenched practice of accepting Private Placements of Treasury Bonds should be considered by the Monetary Board and decided upon by the Monetary Board, before it was implemented.*

*If your answer to Question [10] above is in the affirmative, in the light of the aforesaid considerations, what did you expect Mr. Mahendran to do in pursuance of any*



*instruction you may have given to him, on 24<sup>th</sup> February 2015, with regard to Private Placements ?”.*

Hon. Prime Minister’s Answer

*During the tenure of the office of the previous Government, the determination of interest rate in the Government securities market had been distorted by moving away from a market based mechanism. This had led to a loss of investor confidence.*

*To the best of my knowledge, private placements were not entrenched in the securities market.*

*Furthermore, as private placements invariably took funds from captive sources such as the EPF, the beneficiaries of such funds received diminished returns on their savings. Our policy has always been to encourage market mechanisms and to further macro-economic liberalization including the rates of interest and exchange to be determined by the market. Therefore, traders and other relevant stakeholders would have reasonably expected a return or revival of the public auction system as much as possible as envisaged in the CBSL manual in determining interest rates. Consequently, any adverse impact on the market would have been minimal in the short term and off set by long term investor confidence.*

*In the circumstances, it was expected that Mr. Mahendran would take appropriate steps in accordance with due procedures to give effect to the objectives of the Government as expeditiously as possible in the light of concerns expressed by me.*

*If any further clarification is required from a legal perspective, the Attorney General would assist the Commission.”.*

Question No. [14]

*“Mr. Mahendran has stated to this Commission of Inquiry that, subsequent to the Treasury Bond Auction held on 27<sup>th</sup> February 2015, Hon. Dr. Harsha de Silva telephoned him and conveyed that you had requested Mr. Mahendran to submit a “Briefing Note” with regard to the events relevant to that Treasury Bond Auction.*

*Is Mr. Mahendran’s statement correct ?”*

Hon. Prime Minister’s Answer

*“My reply is as follows -*

*I recall instructing Dr. Harsha De Silva the then Deputy Minister of Policy Planning and Economic Affairs to request Mr. Mahendran to provide a note pertaining to the procedure followed at the Auction held on 27<sup>th</sup> February 2015.”.*

Question No. [15]

*“Did Mr. Mahendran submit a ‘Briefing Note’ to you, with regard to the events relevant to the Treasury Bond Auction held on 27<sup>th</sup> February 2015 ?”*

Hon. Prime Minister’s Answer

*“Upon receipt of the questionnaire forwarded by the Commission I directed my officials to cause a search to be made in my office for briefing notes submitted by Mr. Mahendran. Consequently my officials have traced in my Secretary’s computer a briefing note titled, “Factual Information on the Issue of 30 year Treasury Bond by the Central Bank on 27/02/2015- the Procedure Followed” forwarded by Deputy Governor Mr. Samarasiri. I have been advised by my officials that there are no other briefing notes traceable at my office. A copy of the said briefing note is annexed hereto marked X1”.*

Question No. [16] and Question No. [17]

*“If the answer to Question [15] above is in the affirmative, did Mr. Mahendran state in his ‘Briefing Note’ that:*

- (i) He had visited the Public Debt Department on two occasions on 27<sup>th</sup> February 2015- ie: in the morning (alone) and shortly after noon (together with Deputy Governor Weerasinghe and Deputy Governor Silva) ?*
- (ii) During the second visit together with the two Deputy Governors, Mr. Mahendran had stated to the officers of the Public Debt Department that Bids up to approximately Rs. 10 billion should be accepted ?*
- (iii) If the answer to Question [16] (ii) is in the affirmative, did Mr. Mahendran describe such a statement made by him to the officers of the Public Debt Department to be in the nature of a specific instruction issued to the officers of the Public Debt Department on what amount was to be recommended by the Public Debt Department to the Tender Board or to be in the nature a suggestion for evaluation and consideration by the officers of the Public Debt Department when they were deciding on the amount to be recommended by the Public Debt Department to the Tender Board ?”*

and

*“If the answer to Question [15] above is in the affirmative, did Mr. Mahendran state in his ‘Briefing Note’ that:*

- (i) *Subsequently, in the afternoon of 27<sup>th</sup> February 2015, during the course of the meeting of the Tender Board held to consider the recommendations of the Public Debt Department and decide on the amount of Bids to be accepted, Mr. Mahendran had spoken, on the telephone, with Deputy Governor Samarasiri who was chairing that meeting of the Tender Board ?*
- (ii) *During this telephone conversation, Mr. Mahendran stated to Deputy Governor Samarasiri that the Tender Board should approve the acceptance of Bids up to approximately Rs. 10 billion ?*
- (iii) *If the answer to Question [17](ii) is in the affirmative, did Mr. Mahendran describe such a statement made by him to Deputy Governor Samarasiri to be in the nature of a specific instruction issued to the Tender Board on what amount should be accepted or to be in the nature of suggestion for evaluation and consideration by the Tender Board when the Tender Board was deciding the amount to be accepted ?*

Hon. Prime Minister's Answer

*"My reply to 16 and 17 is as follows -*

*By way of answers to questions 16 and 17 I state that the available briefing note marked XI, related only to the procedure followed at the Auction held on 27<sup>th</sup> February 2015. I do recollect however that Mr. Mahendran did in the course of conversations with me, refer to other attendant circumstances pertaining to the Auction held on 27<sup>th</sup> February 2015. In this context I have referred to these circumstances in the speech made by me in Parliament on 17 March 2015, to which reference has been made in Question Nos. 18,19 and 20."*

Question No. [18]

*"On 17<sup>th</sup> March 2015, you made a statement in Parliament with regard to the 'ISSUE OF Treasury Bonds'. During the course of that statement, you have said, 'I insisted on a public auction because private placements have led to corruption and lack of transparency. Previously, parcels of Government Bonds were handed out to selected individuals on a favoured basis through a system of private placement. It took place outside the normal auctions of Government Treasury Bonds. These are what the Primary Dealers are saying. You must look at the facts .... Private placements were usually as large as ten times bigger than the amount of Government Treasury Bonds sold through the auctions .... This led to an unhealthy link between some of the officers of the Central Bank's Public Debt Department, Primary Dealers and large corporations who benefitted from such private placements. This practice only enriched a handful of*

*cronies of the previous Government .... Records confirm that private placements had become a norm rather than an exception.'*

*What were the sources of information you relied on when you made those observations ?*

Hon. Prime Minister's Answer

*"My reply is as follows -*

*The Commission would no doubt appreciate that this relates to a statement made by me in Parliament which is vested with the control of Public Finance. I have already referred to the criticism that had been levelled against 'Private Placements' and the reasons for the policy decision in favour of Public Auction. The then Government was unable to give requisite answers to the questions in Parliament as to what exactly had taken place through Private Placements. The unhealthy links referred to in question No. 18 were gathered by a group of my MPs which included, Eran Wickramaratne, Dr. Harsha De Silva, Sujeewa Senasinghe and several others, and also from comments made by other Parliamentarians and News Paper Reports."*

Question No. [19] and Question No. [20]

*"During the course of your aforesaid statement to Parliament on 17<sup>th</sup> March 2015, you have also stated that, on 27<sup>th</sup> February 2015, Mr. Mahendran advised [*උපදෙස් දුන්නා*] the Public Debt Department, in the presence of two Deputy Governors [*ie: Dr. Weerasinghe and Mr. Silva*] that, Bids up to Rs. 10 billion should be accepted. You have then gone on to say that, the allegation that Mr. Mahendran interfered in the decision of the Public Debt Department with regard to its recommendation on the amount of Bids to be accepted was factually incorrect. [*"මහ බැංකුවේ අධිපතිවරයා මේකට සම්බන්ධ වුණාය කියලා කරුණු නැහැ. එය සත්‍යයෙන් තොරයි."*]*

*What were the sources of information you relied on when you made this statement ?*

and

*"During the course of your statement to Parliament on 17<sup>th</sup> March 2015, you have also stated that, the allegation that Mr. Mahendran interfered in the decision of the Tender Board was factually incorrect. [*"මහ බැංකු අධිපතිවරයා ටෙන්ඩර් මණ්ඩලයේ කටයුතුවලට මැදිහත් වූවාය කියන චෝදනාව පදනමෙන් තොරයි."*]*

*What were the sources of information you relied on when you made this statement ?*

## Hon. Prime Minister's Answer

*"My reply is as follows -*

*The statement made by me in Parliament on 17<sup>th</sup> March 2015 was based on information relating to attendant events pertaining to the said auction provided by Mr. Mahendran and Mr. Samarasiri - Deputy Governor of the CBSL and Chairman of the Tender Board and in course of conversations with me.*

*I stated that neither the Monetary Board nor I was the proper authority to inquire into the issue. I also informed Parliament that the Pitipana Committee appointed by me was required to inquire into the matter impartially and I undertook to table their Report in Parliament on receipt of same. I also stated that it was open to Parliament to take appropriate steps including the setting up of a Select Committee in the event that the Parliament was not satisfied with the Report."*

Thereafter, the Officers of the Hon. Attorney General's Department who assisted this Commission of Inquiry formulated 33 further Questions. The Commission of Inquiry disallowed 13 of these further Questions because they were outside the terms of our Mandate or were irrelevant or had already been answered in the aforesaid Affidavit dated 20<sup>th</sup> October 2017. The Hon. Prime Minister furnished his Answers to the other 20 further Questions by way of the Affidavit dated 18<sup>th</sup> November 2017 affirmed to by him and marked.

Four of the further Questions formulated by the Officers of the Hon. Attorney General's Department who assisted this Commission of Inquiry related to the aforesaid statement made by the Hon. Prime Minister in Parliament. Those were Question No.s [24], [25], [29] and [32].

We will now set out those Questions and the Hon. Prime Minister's Answers to those Questions, as set out in the Affidavit dated 18<sup>th</sup> November 2017 affirmed to by him.

### Question No. [24]

*[24] In response to question No. 10, you have stated that you advocated a system where Treasury Bonds were 'mainly' accepted through Public Auctions. You have also state that that you insisted that Mr. Arjuna Mahendran should 'consider' issuance of bonds through Public Auctions in accordance with the economic policy of the Government and that you expected him to comply with due procedure. In this context-*

- a. When you said 'mainly', did you in fact have in mind a hybrid system?*
- b. If so, did you satisfy yourself that this was implemented ?"*

Hon. Prime Minister's Answer

*My primary concern was to ensure that Treasury Bonds are raised mainly on public auctions. The proportion of public auctions and private placements with captive funds was a matter for the Governor to decide as it involves technical issues which, in my opinion, is a matter to be decided by experts.”.*

Question No. [25]

*“In response to questions Nos. 10 and 11, you have stated that you expected Mr. Mahendran to follow due procedure to comply with your direction to issue treasury bonds via auctions. In this context-*

- a. In your opinion, particularly as lawyer yourself, what should have been that ‘due procedure’ ?*
- b. Shouldn't that ‘due procedure’ have included approval of the Monetary Board and a considered analysis backed by data and discussion with all relevant stakeholders ?*
- c. As you were aware of the conflict of interest that Mr. Arjuna Mahendran had, did you not consider it prudent to verify and satisfy yourself that the ‘due procedure’ has been followed ?*
- d. In light of the procedure that was adopted by the present Monetary Board in moving to a new system of issuing treasury bonds, do you not consider the abrupt stopping of Direct Placements by Mr. Arjuna Mahendran to have been irresponsible and reckless, to say the least ?”*

Hon. Prime Minister's Answer

*“25 (a) and (b): As stated previously, my expectation was that the bonds should be raised mainly through public auctions. In my previous response to questions 10 and 11 (in the first set of questions) what I stated was that ‘I insisted that Mr. Mahendran should consider the issuance of Bonds by way of Public Auction in accordance with the economic policy of the government.’*

*In this regard the due procedure I expected Mr. Mahendran to follow was to work within the rules and guidelines set by the Monetary Board and follow best practices relating to the running of a Central Bank. Beyond this, I was not expecting to give any instructions or exercise any supervisory role.*

*(c): As stated earlier, I had no reason to believe that Mr. Arjuna Mahendran would face a conflict of interest and there was no special reason to satisfy myself that due procedure had been followed.*

*(d): Initially the primary concerns conveyed to Mr. Mahendran were the lack of transparency and the failure to take into account the market forces, which arose with*



regard to private placements. It would appear that Mr. Mahendran had secured the stoppage of direct placements to address this issue.

I subsequently became aware that, applying the experience of the Sri Lankan money market, and based on expert advice obtained from experts including the US Treasury, the Monetary Board has reviewed the system and adopted a modified system with regard to the issuance of bonds.

The process is periodically reviewed and thus I do not think that Mr. Arjuna Mahendran's abrupt stopping of Direct Placements could be considered irresponsible or reckless, as it was intended to address the lack of transparency associated with the private placement system, and also as the private placement system was not premised on market forces."

Question No. [29]

"In response to question No. 15, you have stated that your officials have traced in your Secretary's computer, a briefing note forwarded by former Deputy Governor of the Central Bank, Mr. P. Samarasiri and you have produced same annexed to your Affidavit dated 20.10.2017 as X1. In this context -

- a) On what date did you receive this briefing note ?
- b) Since the briefing note does not contain a date, author or addressee, was it sent to you with a covering letter ?
- c) Since it appears that what is available in your possession is a soft copy of this briefing note, was such document sent to your office via email by former Deputy Governor Mr, P. Samarasiri ?
- d) If the answer to the above is in the affirmative, are you able to produce that email ?
- e) Did you satisfy yourself of the accuracy of the contents of the briefing note ?
- f) In paragraph 3 of the briefing note, referring to the past practice of the Public Debt Department, it is stated that the 'underlying assumption was to prevent high yields in the market due to pressure from high government borrowing.' Did you consider prevention of high yields/cost implications to GOSL as a reasonable policy concern ?
- g) Paragraph 5 of the briefing note refers to 'internal senior management concerns' and that 'at the time of the auction, the senior management was considering to



*impose an interim suspension on direct placements.’ Did you satisfy yourself of the accuracy of this statement ?*

- h) Are you aware that a member of the Monetary Board at the time has denied any such discussion having taken place ?*
- i) Paragraph 6 of the briefing note states that ‘it was an opportune time to stop direct placements ... without affecting the long term interest rate structure that prevailed for at the time of the last 30 year bond issue in June 2014.’ But, are you not aware that, after the bond auction, the short term interest rates in fact went up abruptly ?*
- j) Did you not call for an explanation on causing such volatility in the market ?*
- k) Did you consider policy justification for considering the interest rates that prevailed for 30 year bonds as far back as June 2014, when the market rates do not remain static and may well have moved downwards ?*
- l) The briefing note refers to the removal of the 3<sup>rd</sup> layer of the policy rates. Are you aware that once again the briefing note is misleading, as the Governor had in fact removed the so called penal interest rate in the morning of the 27<sup>th</sup> February 2015, prior to the auction ?*
- m) In light of the evidence that 75% of the bids received at the 27<sup>th</sup> February 2015 bond auction were submitted by or on behalf of Perpetual Treasuries Ltd would you consider the statement in the briefing note that the auction was in the interest of the majority of the market to be misleading and false ?*
- n) There is undisputed evidence before this Commission that many of the primary dealers had placed dummy bids at the 27<sup>th</sup> February 2015 bond auction, as that they did not in fact wish to invest in 30 year bonds. Therefore, isn’t the above statement in the briefing note misleading and false ?*
- o) For the same reasons, isn’t the reference to ‘market information gathered from this auction’ also misleading and false ?*
- p) What action would you recommend in respect of submitting a misleading, inaccurate and false briefing note to the Prime Minister ?”*

Hon. Prime Minister’s Answer

*“My reply is as follows -*

*In response to the questions contained in paragraphs 29(a)-(d), I state that, the briefing note was sent to, and received by, the official email of the Secretary to the Prime Minister ([secpm@pmoffice.gov.lk](mailto:secpm@pmoffice.gov.lk)) from Mr. P.Samarasiri, then Deputy Governor of the*

Central Bank ([psamara@cbs.lk](mailto:psamara@cbs.lk)) on 11<sup>th</sup> March 2015. There was no covering letter, and the note was attached to the email, a copy which is annexed hereto as X7.

*In replying to questions raised at paragraph 29(e) to (m) at the very outset I wish to state that I am only answerable to Parliament in respect of Ministerial statements I made in Parliament.*

*Without prejudice to this position, I wish to state that whenever I am due to make a statement in a Parliamentary debate I obtain material and briefing notes from the official (s) responsible for particular subject(s).*

*However, I do not use the entirety of matters set out in these material and briefing notes. I only use what I feel is relevant and which can be dealt with due to constraints of time.*

*With regard to this briefing note provided by the Chairman of the Tender Board, the only matter that was relevant to what was raised in Parliament was the reference to the events of 27<sup>th</sup> February 2015 and that the interest rate was 11.73% compared to 11.75% in June 2014. The briefing note was used by me to that limited extent, and only to assist me in my speech in Parliament.*

*As far as the query in paragraph 29 (n) and (o), I wish to state that I am not aware of the evidence placed before the Commission.*

*In view of the matters set out above, the query in paragraph 29(p) does not arise.*

Question No. [32]

*“In to response to question No. 20 and the reference in your statement to Parliament on 17<sup>th</sup> March 2015 that ‘the allegation that Mr. Mahendran interfered in the decision of the Tender Board was factually incorrect’ you have stated that you relied on the information provided by Mr. Mahendran and Mr. Samarasiri. In this context -*

*(a) In the context of the evidence given before this Commission by Mr. P. Samarasiri that the decision to accept Rs. 10 billion at the 27<sup>th</sup> February 2015 was made subsequent to instructions received from Governor Mahendran by telephone, would you now consider the above statement to Parliament as incorrect and misleading or a partial rendition of the truth ?*

*(b) as you have stated neither you nor the Monetary Board were the proper authority to inquire into the issue, and given that you were aware of the lurking potential for conflict of interest, did you not consider it imprudent to deny interference on the part of Mr. Mahendran without first calling for a comprehensive study ?”*

Hon. Prime Minister's Answer

*"My reply is as follows -*

*I note that the question concerns a statement made by me in Parliament, for which I am solely accountable to Parliament.*

*Without prejudice to this position, I reiterate that I relied on information provided to me by Mr. Mahendran and Mr. Samarasiri, and that the statement was made by me bona fide and in a responsible manner.*

*According to the information provided to me, I was informed that the Governor advised that in view of the requirements of the country, bids upto Rs. 10 billion could be accepted, but had not interfered in the process of the award of bids.*

*I have already explained that there was no reason for me to suspect any conflict of interest would arise.*

*I further state that as I am not privy to the evidence given before the Commission, I am unable to further comment."*

We will now set out our findings based on the aforesaid evidence.

Firstly, the Briefing Note marked "X1" referred to by the Hon. Prime Minister, was annexed to his Affidavit dated 20<sup>th</sup> October 2017.

We have examined this Briefing Note, which has been sent by Deputy Governor Samarasiri to the Hon. Prime Minister's Office. Therefore, this Briefing Note would have been drafted or, at the very least, read and agreed to, by Deputy Governor Samarasiri. Accordingly, Deputy Governor Samarasiri must take responsibility for this Briefing Note.

When Mr. Mahendran gave evidence, he stated that, he had submitted this Briefing Note to the Hon. Prime Minister. Thus, Mr. Mahendran has taken responsibility for this Briefing Note.

We note that, the Briefing Note states that, by 27<sup>th</sup> February 2015, *"the senior management was considering to impose an interim suspension on direct placements due to concerns on the prevailing procedure."*

We are of the view that, the aforesaid statement in Briefing Note is false since, as set out earlier on, the evidence establishes that, neither the Monetary Board nor the Senior Management had discussed or studied a proposal to suspend or stop Direct Placements, prior to 27<sup>th</sup> February 2015.

Thereafter, the Briefing Note states that, at the Treasury Bond Auction held on 27<sup>th</sup> February 2015, *“36 Bids amounting to Rs. 20.708 bn were received (20.7 times over-subscribed) from all 16 PDs and EPF for the auction showing great interest in 30 years bonds amidst high liquidity in the market.”*. The Briefing Note also claims that, *“..... the auction was in the interest of the majority in the market.”*

We are of the view that, the aforesaid statement in Briefing Note is a deliberate suppression of the very material fact that, 75% of the Bids received at this Auction had been placed by or on behalf of Perpetual Treasuries Ltd. The real position has been misrepresented to the Hon. Prime Minister.

Thereafter, we note that, the Briefing Note is singularly silent with regard to the fact that Mr. Mahendran had visited the PDD on two occasions on 27<sup>th</sup> February 2015, during the Auction; that he had seen the Bids Received Sheet and, subsequently, directed that the PDD accept Bids to the value of Rs. 10.058 billion.

The Briefing Note is equally silent about the fact that, Mr. Mahendran had spoken to Deputy Governor Samarasiri while the meeting of the Tender Board was underway and instructed that, Bids to the value of Rs. 10.058 billion, be accepted. The Briefing Note does not disclose that, the Tender Board reached a decision to accept Bids to the value of Rs. 10.058 billion only because Mr. Mahendran had insisted that this be done. Instead, the Briefing Note makes out that, the decision to accept Bids to the value of Rs. 10.058 billion was independently taken by the Tender Board.

At the time the Briefing Note was sent to the Hon. Prime Minister - which was several days after 27<sup>th</sup> February 2015 - Mr. Mahendran and Deputy Governor Samarasiri undoubtedly knew the facts and events relating to the Treasury Bond Auction held on 27<sup>th</sup> February 2015.

Therefore, Mr. Mahendran and Deputy Governor Samarasiri both had to know that, the Briefing Note did not present the true picture to the Hon. Prime Minister and that, the contents of the Briefing Note suppressed and misrepresented very material facts.

Further, we note from the Answers given by the Hon. Prime Minister to Question No.s [16], [17], [19] and [20] that, his statements made in Parliament to the effect that, Mr. Mahendran had only advised the Public Debt Department that, Bids up to Rs. 10 billion should be accepted and that, Mr. Mahendran had not interfered in the decisions of the PDD and the Tender Board, were made based on information provided to the Hon. Prime Minister by Mr. Mahendran and Deputy Governor, Samarasiri and in the course of conversations the Hon. Prime Minister had with Mr. Mahendran and Deputy Governor Samarasiri.

In these circumstances, it is evident that, Mr. Mahendran and Deputy Governor Samarasiri have suppressed the facts and events relating to the Treasury Bond Auction

held on 27<sup>th</sup> February 2015 and misrepresented the factual position to the Hon. Prime Minister.

It also appears to us that, the Hon. Prime Minister has simply relied on what was held out to him by Mr. Mahendran and Deputy Governor Samarasiri when the Hon. Prime Minister stated that, Mr. Mahendran had only advised the Public Debt Department that Bids up to Rs. 10 billion should be accepted and that, Mr. Mahendran had not interfered in the decisions of the PDD and the Tender Board.

Upon the aforesaid evidence and in the aforesaid circumstances, we determine that:

- (i) Mr. Mahendran and Mr. Samarasiri have deliberately and *mala fide* misled the Hon. Prime Minister and suppressed material facts and misrepresented the factual position when they reported the facts and events relating to the Treasury Bond Auction held on 27<sup>th</sup> February 2015, to the Hon. Prime Minister;
- (ii) While we do not, for even a moment, presume to make any pronouncement on events that transpired in Parliament, we consider that, Hon. Prime Minister would have been better advised, if he had independently verified what had happened at the CBSL on 27<sup>th</sup> February 2015, before making any statement, placing reliance on what was held out to him by Mr. Mahendran and Deputy Governor, Samarasiri;
- (iii) The evidence establishes that, Mr. Mahendran had not been instructed or directed by the Hon. Prime Minister to act unilaterally and immediately suspend or stop Direct Placements on 27<sup>th</sup> February 2015.

Instead, the Hon. Prime Minister expected Mr. Mahendran to going through the due Procedure - *ie:* of studying the issue and assessing the effect a suspension or stoppage of Direct Placements will have and, thereafter, if considered appropriate after that study was completed, drawing up a considered plan of the manner in which such a decision was to be implemented and obtaining the approval of the Monetary Board, before implementing any decision.

In any event, we note that, the Hon. Prime Minister, though he was the Minister of the National Policies and Economic Affairs under which the CBSL is placed, had no authority to issue a directive to the CBSL to stop the acceptance of Direct Placements. That was a decision which falls solely within the authority of the Monetary Board. The Hon. Prime Minister only had the authority to request the Monetary Board to consider and implement

to the Government's policy with regard to the issue of Treasury Bonds. Thereafter, the decision on what actions to take, if any, lies solely within the province of the Monetary Board, under and in terms of the Monetary Law Act.

Mr. Mahendran was undoubtedly aware of this.

**Section 19.2.9 - Arjuna Mahendran takes leave pending the Inquiry into the Treasury Bond Auction held on 27th February 2015**

At the meeting of the Monetary Board held on 17<sup>th</sup> March 2015, Mr. Mahendran informed the Monetary Board that, in view of the Inquiry that was then being carried out by the "Pitipana Committee" into the issue of 30 year Treasury Bonds at the Auction held on 27<sup>th</sup> February 2015, he would be proceeding on leave from 18<sup>th</sup> March 2015 until the results of that Inquiry were known.

The Minutes of this meeting, which were marked "C60B12", state:

"Governor's Leave to facilitate the investigation on the 30-year Treasury bond issue

- a) *The Governor informed the Board that he would be on leave from 18.03.2015 to facilitate the investigation instituted by the Government on the recent issuance of the 30-year Treasury bond.*
- b) *The Board decided to designate Mr. P. Samarasiri, Deputy Governor, as the Deputy Governor from 18.03.2015 in terms of Section 24 of the Monetary Law Act."*

**Section 19.2.10 - The "Pitipana Committee"**

Soon after allegations were made, in the public domain, after the Treasury Bond Auction held on 27<sup>th</sup> February 2015, the Hon. Prime Minister appointed a three person Committee to inquire into and report on this Auction.

This Committee was chaired by Mr. Gamini Pitipana, Attorney-at-Law. The other two members of the Committee were Mr. Mahesh Kalugampitiya, Attorney-at-Law and Mr. Chandimal Mendis, Attorney-at-Law.

The Hon. Prime Minister directed that, Dr. W.A. Wijewardena, a former Deputy Governor of the CBSL, assist the Committee with regard to the technical aspects of the matter being inquired into.



As stated in the Report of this Committee, which is included in Volume 11 of the Report of the COPE Committee, marked “C90E”, the Terms of Reference of the Committee were to investigate into:

- “ 1) *The reason for the Department of Public Debt of the Central Bank of Sri Lanka to make an announcement to issue a total of LKR 1 Billion;*
- 2) *The sequence of events and key statistics associated with the said Bond Issue with respect to each Primary Dealer;*
- 3) *The bids received and allocations made by the Public Debt Department of the Central Bank in every Bond issue beginning from January 1<sup>st</sup> 2012 by Auctions and Private Placements.”*

The Committee had interviewed Mr. Mahendran, Deputy Governor Samarasiri, Ms. Seneviratne, Superintendent of Public Debt, Dr. Aazim, Additional Superintendent of Public Debt, the CEO of Perpetual Treasuries Ltd. and representatives of several Primary Dealers.

The Committee has, *inter alia*, made the following observations in its Report:

- “19. *The Committee at this stage can only make an observation that the bidding pattern of Perpetual Treasuries and securing 50% of the accepted bids as unusual. Given the limited scope of the TOR this Committee is not empowered to make any assumption with regard to the aforesaid. However, in the interest of the public since the said transaction involves public funds and fiscal regulations of the Government, the Committee observes that a full-scale investigation by a proper Government Authority is warranted.*
21. *Though not directly within the mandate of the TOR the Committee questioned Ms. Deepa Seneviratne, the Superintendent of PDD, Dr. Aazim, the Assistant SPD of PDD and Mr. Samarasiri, the Acting Governor of the CBSL whether this bond issue had caused any loss to the Government and if so a rough estimate of the same. All three stated that they did not agree that there is a loss to the Government given the fact that market conditions vary with regard to the Treasury Bonds depending on various factors and the volume of the funds raised. Mr. Samarasiri furnished a copy of the judgment of the Supreme Court in Case no: SC FR 457/2012 (The Greek Bonds case). He requested the Committee to take note of a particular paragraph which the Committee thinks fit to quote verbatim;*



*Sri Pavan J (as he was then)*

*“We must not forget that in complex economic policy matters, every decision is necessarily empiric and therefore its validity cannot be tested on any rigid formula or strict consideration.....”.*

- 23. The Committee observes that there is no impediment for the Government and or Parliament and or any Organization with public interest to engage in necessary mechanism in establishing the loss to the Government, If existent.”.*
- 23. The Committee also observes from the Information placed before the Committee, that there is a serious lack of transparency pertaining to the activities of the PDD of the CBSL. There is no proper supervision of the activities between the Primary Dealers and the PDD. There is no recording of calls, there is no log of any documents received, no supervision of electronic footprint; such as text messages and emails between the officials of the PDD and the Primary Dealers.*
- 24. Since the PDD is dealing with the most sensitive information of the Government, the Committee is of the opinion that a proper supervisory and monitoring mechanism has to be immediately implemented with regard to the activities of the PDD and the Primary Dealers.” .*
- 26. The Committee further observes that the sentiments expressed by several Primary Dealers establishes a conjecture that sensitive information of the Central Bank and the secrecy of the same may have been compromised on occasions. The Committee is careful to note that this only assumption bordering on an allegation and nothing more. However, given the fact that a document containing sensitive information is available in the public domain, there may be a possibility of the secrecy of information possessed by the CBSL being compromised. In view of the aforesaid the Committee observes that a full-scale investigation by a proper Government Authority is warranted upon the activities of the PDD and its officials and any other Department of CBSL and its officers, to ascertain whether there is any truth in the assumptions pertaining to the sensitive information of the CBSL being compromised.”.*

A careful examination of the Report of the Committee shows that, the Committee did not determine that, there was any impropriety in the conduct of the Treasury Bond Auction held on 27<sup>th</sup> February 2015.

The copy of the Report of the Committee which has been included in Volume 11 of the Report of the COPE Committee, marked “C90E”, does not bear a date. Therefore, we are not able to state when the Report was submitted to the Hon. Prime Minister.

Subsequently, the Report of this Committee was formally tabled in Parliament on 19<sup>th</sup> May 2015.

We note that, Mr. Mahendran tabled the Report of the Committee at the Monetary Board on 01<sup>st</sup> June 2016 as recorded in the Extract from the Minutes of the meeting of the Monetary Board held on that day, which were marked “C60B15(i)”.

However, the evidence before us establishes that, the CBSL did not take prompt action to implement the recommendations made in that Report to install Voice Recording Facilities and other monitoring mechanisms in the PDD and to improve the supervisory procedures of the PDD.

**Section 19.2.11** - **The Meeting of the Monetary Board of Sri Lanka on 11<sup>th</sup> April 2015**

The meeting of the Monetary Board on 1<sup>st</sup> April 2015 was held under the Chairmanship of Deputy Governor Samarasiri who, the Monetary Board had designated to act as Deputy Governor during Mr. Mahendran’s absence on leave from 18<sup>th</sup> March 2015 onwards.

At its meeting held on 11<sup>th</sup> April 2015, the Monetary Board considered a Board Paper submitted by the Department of Economic Research, dated 11<sup>th</sup> April 2015, marked, “C60B13(i)” which made the following observations.

- “2. *An upward pressure in interest rates is observed recently, particularly in the government securities market indicating some instability.*
- i. Considering the signs of sustained increase in private sector credit disbursements by commercial banks, the Central Bank removed the restrictions placed on access to the SDF w.e.f. 02 March 2015. Subsequent to this measure, the average weighted call money rate (AWCMR) has increased and currently remains closer to 6.70 per cent.*
  - ii. In order to avoid the upward pressure in short term interest rates, some downward adjustment in policy rates corridor was required along with the removal of the special SDF rate.*

- iii. *The yields on Treasury bills, which have displayed an increasing trend since end December 2014 reflecting market expectations of higher government financing requirement in the near term, increased sharply at the recent primary market auctions. Accordingly, the 91-day, 182-day and 364-day Treasury bill rates increased from 5.74 per cent, 5.84 per cent and 6.00 per cent, respectively at end 2014 to 6.56 per cent, 6.83 per cent and 6.90 per cent, respectively by 9 April 2015. Reflecting the increase in the primary market, the yields on Treasury bills in the secondary market also increased.*
- iv. *Meanwhile, the yields of Treasury bonds also increased significantly. As at end 2015, in the secondary market, Treasury bonds with longer term maturities (20-year and 30-year) have increased within a range of 77-116 basis points since end February, while Treasury bonds with maturities up to five years have increased within a range of 85-133 basis points.*
- v. *Continuous pressure on the yield rates in the government securities market indicates some instability in the market. In addition to the government's high financing requirement, the recent increase in yield rates in Treasury bonds, particularly for longer term maturities, reflects the impact of the change of the auction system for government securities.*
- vi. *Impact of increase in overnight rates and government securities market is reflected in the market lending rates as well. The weekly average weighted prime lending rate (AWPR) increased to 7.14 per cent for the week ending 10 April 2015 from 6.33 per cent recorded at end 2014. If the current increasing trend in short term rates is continued, other market lending rates, particularly long term interest rates could also firm up, thereby adversely impacting on private sector credit growth and disturbing the growth momentum of the economy.”*

*The Monetary Policy Committee (MPC) made the following recommendations.*

- i. *“The members of the MPC observed that most of the short term interest rates have been increasing recently indicating some instability in the market, which needs to be adjusted without a delay, in order to prevent adverse impact on the momentum of credit growth and economic activity, while minimizing the impact on government borrowing cost.*
- ii. *The MPC observed that current inflation levels and outlook for inflation does not provide any rationale for increases in market interest rates. As inflation remains very low levels and real interest rates remain largely positive, the MPC of the view that there remains space for further monetary relaxing in order to stabilize the interest rate structure.*

- iii. *The MPC members also reiterated that interest rates may not be the appropriate instrument to defend the exchange rate. Hence, MPC members were of the view that considerations of the exchange rate should not prevent further monetary relaxation and hence, the MPC suggested that a gradual adjustment in the exchange rate be allowed.*

#### *Approval*

- i. *In view of the above, the Monetary Board is invited to approve the following:*
- *Reducing the Standing Deposit Facility Rate (SDFR) and the Standing Lending Facility Rate (SLFR) by 50 basis points.*
  - *Announcing the monetary policy decision to the market working day after the New Year holidays.”.*

The Monetary Board agreed with this recommendation and, as stated in the extract from the Minutes of the meeting held on 11<sup>th</sup> April 2015 and marked “**C60B13(i)**”, the Monetary Board stated:

- “ 15.3. *Accordingly, the Board having considered the behavior of market interest rates inconsistent with the low and declining inflation trend and investments needed to address the current concerns on growth of the economy decided to;*
- a) *Accept the recommendation of the Monetary Policy Committee to reduce the Standing Deposit Facility Rate and Standing Lending Facility Rate by 50 basis points each to 6 per cent and 7.5 per cent , respectively, to be effective from April 15, 2015.”.*

The Secondary Market Yield Rates and the Money Market Interest Rates reflected in the Weekly Statistics and other documents of the CBSL produced in evidence show that, this decision taken by the Monetary Board on 11<sup>th</sup> April 2015, had a salutary effect and brought about a downward trend in both Yield Rates and Interest Rates.

The significant rise in both Yield Rates and Interest Rates which had commenced soon after 27<sup>th</sup> February 2015, eased after 11<sup>th</sup> April 2015 and Yield Rates and Interest Rates stabilized, to an extent.

**Section 19.2.12 - Arjuna Mahendran returns to the CBSL**

When he gave evidence, Mr. Mahendran stated that he had returned to the CBSL towards the end of April 2015.

We note that, the Attendance Sheet relating to the meeting of the Monetary Board held on 24<sup>th</sup> April 2015, and marked “**C60B14(iii)**”, shows that Mr. Mahendran had returned to the CBSL by 24<sup>th</sup> April 2015.

We assume that the Report of the “Pitipana Committee”, which, as mentioned earlier, did not determine that there was any impropriety in the conduct of the Treasury Bond Auction held on 27<sup>th</sup> February 2015, had been submitted to the Hon. Prime Minister, before Mr. Mahendran returned to the CBSL.

**Section 19.2.13 - The D.E.W. Gunasekera COPE Inquiry**

As observed earlier, the Report of the “Pitipana Committee” stated, *inter alia*, that, there should be an investigation into how Perpetual Treasuries Ltd secured 50% of the Bids accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and that, while there was no evidence before the Committee to establish that any loss had been caused to the Government, a further examination of this issue could be carried out by Parliament or the Government or a suitable Organization.

The Report of the “Pitipana Committee” was formally tabled in Parliament on 19<sup>th</sup> May 2015.

Immediately thereafter, the Hon. Speaker directed, on 20<sup>th</sup> May 2015 and in pursuance of a Motion earlier submitted to Parliament by several MPs and included in the Order Paper issued on 08<sup>th</sup> May 2015, that, COPE should carry out a full investigation into the issuance of a 30 Year Treasury Bond, which had taken place on 27<sup>th</sup> of February 2015.

In pursuance of this direction, COPE had appointed a Special Sub Committee of 13 members of COPE to carry out a full investigation into the aforesaid issuance of a 30 Year Treasury Bond.

This Special Sub Committee had been chaired by Hon. D. E.W. Gunasekera, MP.

The Special Sub Committee held 14 meetings and evidence had been led on 11 of these days. 42 witnesses had testified before the Special Sub Committee during the period from 22<sup>nd</sup> May 2015 to 26<sup>th</sup> June 2015.

At this stage - *ie*: at the end of June 2015 - the Special Sub Committee required to hear the evidence of many more witnesses in order to complete the investigation and submit its Report.

However, in July 2016, several Members of Parliament had requested that, the Report of the Special Sub Committee be submitted. In view of these requests, the Hon. Speaker had requested that, an Interim Report be submitted.

In view of the Hon. Speaker's request, Mr. D.E.W. Gunasekera had drafted an Interim Report in consultation with the Auditor General and his team which had assisted the Special Sub Committee.

However, Mr. D.E.W. Gunasekera categorically stated to us that, he considered that, further inquiries were necessary before a complete Report could be prepared.

The Special Sub Committee was unable to proceed further with the preparation of an Interim Report because several members of the Special Sub Committee were not present at the meetings convened to discuss the draft Interim Report prepared by Mr. Gunasekera. Further, some members of the Special Sub Committee objected to the submission of an Interim Report and stated that only a complete Report should be submitted.

The Special Sub Committee could not reach a unanimous decision on whether or not to submit an Interim Report.

Therefore, an Interim Report was not submitted to the Hon. Speaker.

The Special Sub Committee did not proceed further with its inquiries since the Seventh Parliament was dissolved with effect from 26<sup>th</sup> July 2015 and a General Election was held on 17<sup>th</sup> August 2015.

After the General Election, the Eighth Parliament was convened on 01<sup>st</sup> September 2015.

The Proceedings and Evidence of the witnesses before the COPE Special Sub Committee of the Seventh Parliament which was chaired by Mr. Gunasekera are included in the Report of the COPE of the Eighth Parliament, which has been produced in evidence.

**Section 19.2.14-**

**The Sunil Handunetti COPE Inquiry and its Report, the Footnotes to the Report, the telephone calls between a few members of that COPE and Arjun Aloysius and the Auditor General's Report**

**The COPE Inquiry and Its Report**

The COPE of the Eighth Parliament is chaired by Hon. Sunil Handunetti, MP.

On 06<sup>th</sup> May 2016, the COPE of the Eighth Parliament decided to collectively inquire into the issue of Treasury Bonds in the first Quarter of 2015 and all matters related thereto and to submit a Report to Parliament.

Thereafter, COPE instructed the Auditor General to investigate the issue of Treasury Bonds in the first Quarter of 2015 and all matters related thereto and to prepare a Report to be submitted to Parliament.

The Auditor General had carried out this task and submitted a Report to the Hon. Speaker on 29<sup>th</sup> June 2016. After considering the Report, the Hon. Speaker forwarded the Report to COPE. In the meantime, inquiries by COPE commenced in June 2016 and COPE heard the evidence of several witnesses. Hon. Sunil Handunetti, MP stated that, 23 witnesses testified before COPE.

On 23<sup>rd</sup> September 2016, COPE directed the Auditor General to update his Report dated 29<sup>th</sup> June 2016, by taking into account the evidence placed before COPE during its inquiries. Accordingly, the Auditor General prepared an updated Report which was submitted to COPE and considered by COPE.

The inquiry by COPE continued till the end of October 2016. Mr. Handunett stated that, COPE met on 12 occasions during this period for the purpose of hearing the evidence of witnesses and to deliberate on the Report.

The Report of COPE was submitted to Parliament on 28<sup>th</sup> October 2016.

This Report consists of 13 volumes. The findings and recommendations made by COPE are in Volume 1, which was marked "**C90A**". The other 12 volumes were marked "**C90B1**" onwards.



Mr. Handunetti stated that, 15 members of COPE had agreed to the entirety of the draft Report, which had been prepared by him.

Mr. Handunetti stated that, 9 members of COPE had some different views with regard to a few specific areas of the draft Report or wished to make clarifications with regard to those specific areas.

In this connection, when the Commission of Inquiry asked Mr. Handunetti, whether there were different opinions [“මත”], he replied, “ඇත්තටම ගරු සභාපතිතුමන්, ඒකෙ මත වලට වඩා පැහැදිලි කිරීම්වල වෙනස්කම තිබුණෙ.”.

Mr. Handunetti stated that, after discussion, it was agreed that, the draft Report prepared by him would be regarded as the Report of COPE, subject to the inclusion of Footnotes which would set out the differing views or clarifications which the aforesaid 9 members of COPE wished to include in the Report in relation to those specific areas.

In this connection, when the Commission of Inquiry asked Mr. Handunetti whether the Footnotes to the Report should be understood in the aforesaid context as explained by him, Mr. Handunetti, “ඒ කියන්නේ පාද සටහන් ඒ යනුවෙන් තේරුම් ගත යුතුයි. ඒ වගේම ඒ පාද සටහන් වලට එකඟ නොවී සම්පූර්ණ වාර්තාව මම සභාපතිවරයා හැටියට කාරක සභාවට ඉදිරිපත් කරනු කෙටුම්පත් වාර්තාවම වාර්තාව හැටියට පිලිගන්න පිරිසක් නිව්ය. 15 දෙනෙක්. 9 දෙනෙක් මම ඉදිරිපත් කරනු කෙටුම්පත් වාර්තාව පාද සටහන් සහිතව පිලිගැනීමට එකඟ වුනා.”.

When the Commission of Inquiry then asked Mr. Handunetti, “ඒ කියන්නේ ඒ 9 දෙනාගෙ අදහස එහෙනම් ඒ පාද සටහන් වලට අදාල විශේෂ කරුණු සම්බන්ධයෙන් ඔවුන්ගේ අදහස් පාද සටහන් වල අඩංගු වෙනවා. හරිනෙ.”, he replied, “පැහැදිලියි.”.

Mr. Handunetti stated that, all 24 members of COPE had agreed that, the Report with Footnotes, should be submitted to Parliament.

Mr. Handunetti emphasized that all 24 members of COPE who actively participated in the inquiry, unanimously agreed to all the Recommendations set out in the Report.

In reply to questions from the Commission of Inquiry, Mr. Handunetti stated that, COPE was of the view that, the Auditor General’s computations which estimated that an “Immediate Loss” of Rs. 688.538 million was caused by the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and that an “Immediate Loss” of Rs. 784.898 million was caused by the Treasury Bond Auctions held in March 2016 and the assumptions upon which these two computations were made, are reasonable and should be accepted.

In this connection, when the Commission of Inquiry asked Mr Handunetti, “දැන් විගනකාධිපතිවරයා ක්ෂණික අලාභයක් ගනනය කරල නියෙනවානේ සාක්ෂිකරු?”, he replied in the affirmative. Thereafter, in response to the question, “එතකොට ඒක ඒ තර්කය ඒ ක්ෂණික අලාභය ගනනය කිරීමේදී ඔහු විගනකාධිපතිවරයා භාවිතා කරනු පදනම සාධක අනුව ඒ ක්ෂණික අලාභය ලැබුනා කියල කෝප් කමිටුව පිලිගන්නද?”, Mr. Handunetti replied, “පිලිගන්නවා මොකද විගනකාධිපතිතුමාගේ ලේඛනය පදනමක් හැටියට පිලිගන්නකොටම එම අලාභයන් පිලිගන්නවා.”

In reply to questions from the Commission of Inquiry, the witness stated that, COPE had not examined the “long term losses” or “optional losses” which are referred to in the Auditor General’s Report.

In this connection, when the Commission of Inquiry asked Mr. Handunetti, “ඒ කියන්නේ ඉම්ඩියට් ලොස් එකක් කියල ඒක ඊට පස්සේ විගණකාධිපතිවරයා ඉදිරියෙන් විය හැකි පාඩු වශයෙන් අලාභ වශයෙන් යම් යම් තර්ක ඉදිරිපත් කරලා නියෙනවා. ඒ විය හැකි පාඩු නැත්නම් අනාගතයේ පාඩු සම්බන්ධයෙන් කෝප් කමිටුව වෙනම විමර්ශනයක් හෝ”, he replied, “එහෙම විමර්ශනයක් කරලා නැහැ.”

The Report of COPE makes the following General Recommendations, which all the members of COPE who actively participated in the Inquiry, have agreed to:

*“In the issuing of Bonds by the Central Bank of Sri Lanka in 2015 and 2016, the Committee observes that evidence or facts have surfaced before the Committee, which are likely to cause reasonable suspicion that the former Governor of the Central Bank, Mr. Arjuna Mahendran has made an intervention and influenced at the issuing of bonds at the transactions held on 27 February 2015.*

*The Committee observed that at the investigation and examination of evidence conducted by the Committee, evidence or facts, likely to cause reasonable suspicion that certain transactions lack minimum transparency and that the manner in which the Central Bank acted at these transactions has resulted in its credibility being eroded, have surfaced before the Committee.*

*Further, the Committee observes that on institution, Perpetual Treasuries out of the primary dealers has made enormous financial dividends through the bond transactions that have taken place during that period.*

Therefore, -

The Committee emphasizes that parliament should directly intervene to,

- Recommend punishments or other orders that should be imposed against the other officials of the Central Bank and institutions so responsible for these transactions
- While it is recommended that the loss incurred by the government and the general public as a result of those irregular activities should be recovered from those person or institutions, the Committee emphasizes that necessary legal actions should be initiated against them
- Oversee and ensure that the recommended punishments and orders are implemented to the letters and do the necessary follow up
- Implement all steps and checks and balances that should necessarily be taken to ensure such activities will not recur in future
- Oversee and ensure that such checks and balances are enforced by the Central Bank in the proper manner and do the necessary follow up as it is the basic responsibility of Parliament in regard to financial control.

The Committee very earnestly recommends that it is the responsibility of the Parliament to work under the existing laws and charge the losses incurred to the government. The Committee emphasized that the Central Bank and other institutions attached to it should ensure to the Parliament that a proper mechanism is established to prevent such things in the future.

Also,

The Committee also recommended that the Central Bank of Sri Lanka and its affiliated institutions should assure parliament that steps will be taken to prevent the recurrence of such a situation in future by establishing suitable mechanisms in them.

01. Since action taken by officers of the Central Bank has pave way for Perpetual Treasuries to earn an undue advantage as an individual organization, and since action taken by Perpetual Treasuries also were carried out with the objective of utilizing the advantage given to them, it poses a gravely detrimental effect on the transparency and credibility of fiscal management of the Central Bank. Therefore, it is recommended that an extensive investigation be carried out in this regard by a recognized institution with

*legal authority and that action be taken to prevent the repetition of similar situation in future.*

*02. The Committee recommends that priority be given to state financial institutions which are able to fulfill urgent financial requirements of the government when sourcing funds required for the country through the process of issuing bonds and recommends that clauses to provide for the above be inserted into the Operations Manual of the Central Bank and other relevant documents.*

*03. Perpetual Treasuries, which is the institution involved in the bond issue in question has earned exorbitant profit within a very short span of time, hence it is necessary to investigate the aforesaid process of profit earning by a competent mechanism and it is the firm belief of the Committee that ascertaining immediately whether their action has resulted in any financial loss to the Central Bank and the Government is the responsibility of the Central Bank.*

*04. Establishment of a mechanism to conduct post-analysis of the market activities of primary dealers and functioning of the secondary market with the intervention of the Ministry of Finance is recommended to prevent occurrence of similar financial irregularities in future. Then, the Ministry of Finance too will be able to carry out follow-up activities by the central Bank to source funds for financial requirements of the government.*

*05. Operations Manual of the Public Debt Management Department which has not been updated up to now, should be updated without delay and it is further recommended that provisions to give priority to capable state financial organizations when sourcing fund through bonds to fulfill requirements of the government be inserted into it.*

*06. Mr. Arjuna Mahendran is directly responsible for the bond transaction in 2015-2016 and taking legal action against him and other relevant officers as well as recovering from him the loss incurred is recommended.*

*07. It is recommended that a mechanism be established to maintain transparency in such transactions and to safeguard credibility of the Central Bank.*

*The Committee believes that it is a key responsibility of the Committee to present all documents, details and evidence (despite the fact that some of those details are said*

*to be sensitive) to the august assembly which is vested with the total control of state finances in terms of Article 148 of the Constitution of the Democratic Socialist Republic of Sri Lanka.*

*On the basis of the aforementioned responsibilities, this report comprising of following recommendations is submitted to Parliament and it is the recommendations of this Committee that an open discussion regarding the report be carried out in Parliament after the report is submitted.”.*

### **The Footnotes to the Report**

Since as stated by Hon. Sunil Handunetti MP, although all the members of COPE who actively participated in the Inquiry agreed to all the General Recommendations made in the Report, nine members of COPE had different views or wished to make certain clarifications with regard to some sections of the Draft Report prepared by Mr. Handunetti,

As stated by Hon. Sunil Handunetti MP, all members of COPE agreed that, these views or clarifications voiced by these nine members of COPE should be included in the Report, in the form of Footnotes.

In this connection Mr. Handunetti's evidence, which has been set out above, makes this position matter clear.

We consider it necessary to examine these Footnotes, especially since these Footnotes have created some discussion in the media and elsewhere in the public domain.

Since these Footnotes have been made with specific reference to particular sections of the main body of the Report and, therefore, these particular sections of the main body of the Report may have to be read to properly understand the context in which the Footnotes have been made, it is necessary to annex the relevant part of the Report to this Chapter. Therefore, we have annexed, marked as Appendix "C" to this Report, a copy of the COPE Report published in the English language. This is a translation from the original report which is published in Sinhala and where necessary we have referred to the Report in the Sinhala Language [both the main body of the Report and the Footnotes]. This Report was produced in evidence marked, "**C90A**".

There are 32 Footnotes which were included at the instance of the aforesaid 9 members of COPE. We will now make our brief observations with regard to each of these Footnotes.

Before doing so, we should refer to Section 3.2 of the Report.

Section 3.2 of the main body of the Report states, *inter alia*, that, “Accordingly, by issuing bonds at a yield rate lower than the interest rate, a premium price is received and the government gains an additional financial benefit. Conversely, the government is in for a financial loss by issuing bonds at a yield rate above the interest rate, i.e. discount rate. By issuing bonds at a yield rate equal to the interest rate, the government does not incur any financial loss or gain.”.

Seven of the nine members referred to above have stated that they were not in agreement with the above statement.

Therefore, Section 3.2 of the Report goes on to state:

**“Hon. (Dr.) Harsha De Silva, Hon Ajith P. Perera, Hon. Ashok Abeysinghe, Hon. Sujeewa Senasinghe, Hon. Hector Appuhamy, Hon. Wasantha Aluvihare and Hon. Harshana Rajakaruna stated that they were not in agreement with paragraph 3.2 and instead agreed upon the following amendment to the paragraph.**

*They stated that they could not concur with the assertion that ‘by issuing bonds at discount rate that the Government incur a financial loss’.*

*In general, the statement to the effect that the government incurs a loss on all occasions through the issue of bond at a discount price cannot be agreed upon. The reason for this is that a bond of less than one year is a bill (a Treasury Bill) can never be sold at face value. If an interest or coupon is attached to a bond with more than one year maturity, it can only be sold at a face value of Rupees One Hundred only on one occasion, i.e. only if the interest received for a bond is equal to the interest received for it during the same period of time in the secondary market. If there are previously issued unsold bonds in the market similar to this bond and if the yield rate that such bonds receive in the secondary market is higher than these bonds, the bond can only be sold at a discount. Whether the face value is above or below hundred is determined by the interest rate relevant to this bond and the yield rate for similar bonds in the market.”.*

We agree with the observation made by these seven members that, Market Factors such as the Yield Rates and Interest Rates which then prevail in the Market for similar Treasury Bonds, perceptions held by the Market of the likely trends in Yield Rates and



Interest Rates, the Government's demand for funding, the quantity of similar Treasury Bonds which have been previously issued, prevailing economic conditions and global factors, all play a significant part in determining whether the CBSL is able to issue a Treasury Bond at a "Discount" or at a "Premium".

We will now set out our observations on the Footnotes:

#### Footnotes 1, 2 and 3

Footnotes 1, 2 and 3 refer to Section 4.1.1 and Section 4.1.2 of the main body of the COPE Report.

The observations made in these Footnotes are factually correct, as established by the evidence before us. This evidence has been set out above and the relevant documents are annexed to our Report.

The extracts of the Monetary Board Paper No. MB/PD/01/26/2008 dated 07<sup>th</sup> January 2008 and Monetary Board Paper No. MB/PD/11/16/2008 dated 02<sup>nd</sup> May 2008 which have been quoted in these Footnotes, are cited accurately.

We should mention here that the main body of the Report has placed reliance on the Auditor General's Report, which refers to the Board Papers submitted to the Monetary Board by the Department of Public Debt.

It appears to us that, both the main body of the Report and the Footnotes have overlooked the fact that Board Papers only met out the recommendations made by a Department to the Monetary Board.

What is, in fact, relevant are the decisions taken by the Monetary Board.

The Decisions of the Monetary Board relating to the matters referred to in Section 4.1.1 and Section 4.1.2 of the Report and Footnotes 1, 2 and 3, have been set out in Chapter 7 above.

#### Footnotes 4, 5 and 6

Footnotes 4, 5 and 6 refer to Section 4.2 of the main body of the Report.

The observations made in these Footnotes are factually correct, as established by the evidence before us. This evidence has been set out above and the relevant documents are annexed to our Report.

#### Footnote 7

Footnote 7 refers Section 4.6 of the main body of the Report.



The observations made in this Footnote are factually correct, as established by the evidence before us. This evidence has been set out above and the relevant documents are annexed to our Report.

In this connection we would observe that as stated in our Report the practice of accepting Direct Placements (also known as 'Private Placements') had become entrenched over a period of many years and has been repeatedly reported to the Monetary Board.

Therefore, the Monetary Board was aware that large scale Direct Placements were being accepted and as a result, Direct Placements were made with the *de facto* approval of the Monetary Board.

#### Footnote 8

Footnote 8 refers to Section 5.1.1 of the main body of the Report.

The observations made in this Footnote are factually correct, as established by the evidence before us. This evidence has been set out above and the relevant documents are annexed to our Report.

#### Footnote 9

Footnote 9 refers to Section 5.2 of the main body of the Report.

Section 5.2. of the main body of the Report cites the Statement in the Auditor General's Report, that a Yield Rate for 30 Year Treasury Bonds which prevailed in the Secondary Market in the week prior to 27<sup>th</sup> February 2015, was 9.48%

This Footnote correctly observes that, it may not have been possible, on 27<sup>th</sup> February 2015, to have obtained Direct Placements for 30 Year Treasury Bond from the Market at a Yield Rate of 9.48%.

In this connection we have observed in our Report that the Secondary Market Yield Rates stated in the weekly reports of the Central Bank, were not reliable.

#### Footnote 10,11, 12 and 13

Footnotes 10, 11 and 12 refer to Section 5.3 of the main body of the Report.

The observations made in these Footnotes are factually correct, as established by the evidence before us. This evidence has been set out above and the relevant documents are annexed to our Report.

#### Footnote 14

Footnote 14 refers to Section 5.3 of the main body of the Report.

This Footnote appears to cite an extract from the draft Interim Report prepared by the COPE of the Seventh Parliament.

Mr. D.E.W. Gunasekara, who chaired the COPE of the Seventh Parliament, stated to us that, he was unable to table the draft Interim Report and that it was in fact in his custody. This draft Interim Report has not been produced before us.

#### Footnote 15

Footnote 15 refers to Section 5.3 of the main body of the Report.

We note that, both the relevant part of Section 5.3 in the main body of the Report and Footnote 15 are erroneous for the reason that the Note marked “**C39B5A**” made by Ms. Seneviratne, Superintendent of Public in the Option Sheet marked “**C39B5**” reads, as follows:

*“Hd/FO*

*G [Governor] instructed to raise funds up to Rs. 10 bn, taking into consideration of additional fund [requirement] of the Govt. Pl.”.*

#### Footnote 16

Footnote 16 refers to Section 5.3 of the main body of the Report.

This Footnote is not accurate since the evidence clearly establishes that, the instruction to remove the Two-Tier Interest Structure of the overnight Standing Deposit Facility was issued by Mr. Mahendran.

However, it is correct that Deputy Governor Weerasinghe was chairing the meeting of the Market Operations Committee when Mr. Mahendran issued that instruction. It is also correct that Dr Weerasinghe did not raise any objection to the instruction given by Mr. Mahendran and that, he approved the Draft Circular by which this decision was made known to the Market.

#### Footnote 17

Footnote 17 also refers to Section 5.3 of the main body of the Report.

This observation is factually correct, since Mr. Mahendran issued this instruction at the meeting of the Market Operations Committee held 27<sup>th</sup> February 2015.

#### Footnote 18

Footnote 18 refers to Section 5.7 of the main body of the Report.

The observations in this Footnote are factually correct to the extent that the meeting of the Domestic Debt Management Committee was held, on 27<sup>th</sup> February 2015, after the Auction had concluded and a decision had been taken to accept bids to the value of Rs. 10.058 billion, but, nevertheless, failed to record that fact in the Domestic Borrowing Programme for the month of March 2015.

#### Footnote 19

Footnote 19 refers to the entirety of Section 6 of the main body of the Report, which considers the Auditor General's estimates of the losses resulting from the Treasury Bond Auction held on 27<sup>th</sup> February 2015.

This Footnote only states that the evidence given by Dr. Aazim before COPE of the Seventh Parliament is very important when COPE considers the above.

#### Footnote 20

Footnote 20 refers to Section 6.1 of the main body of the Report.

Footnote 20 observes that, the Auditor General's computation of losses proceed on the assumption that all balance fund requirements could have been obtained by way of Direct Placements and comment that, this assumption is erroneous, *inter alia*, because the system of accepting Direct Placements had not been approved by the CBSL.

While it is correct that the system of accepting Direct Placements on a wide scale from the market and not only from "Captive Sources" had not received formal approval from the Monetary Board, we have previously observed that this system has been entrenched over many years and had the *de facto* approval of the Monetary Board. Footnote 20 overlooks this fact and is, therefore, erroneous when it states that the Auditor General was not entitled to assume that, the balance fund requirement could have been raised by way of Direct Placements.

#### Footnote 21

Footnote 21 refers to Section 6.1.1 of the main body of the Report which considers Auditor General's estimate of the loss resulting from the Treasury Bond Auction held on 27<sup>th</sup> February 2015 on the premise that, only Bids to value of the offered amount of Rs. 1 billion should have been accepted at that Auction.

The first paragraph of this Footnote refers to Proceedings which transpired within COPE and we cannot comment on this paragraph.

The second paragraph of the Footnote is factually correct to the extent that Interest Rates in the Market moved up following the removal of the Two-Tier Interest Rate Structure on the Overnight Standing Deposit Facility.

Therefore, it was difficult to accurately ascertain the Yield Rates at which Direct Placements would have been accepted by the PDD immediately after 27<sup>th</sup> February 2015. It is also correct that Direct Placements to the value of Rs. 3.4 billion had been raised in the week prior to 27<sup>th</sup> February 2015. Further it is correct that the computation made by the Auditor General on the losses, is made on assumptions.

#### Footnote 22

Footnote 22 refers to Section 6.2 of the main body of the Report which considers Auditor General's estimate of the loss resulting from the Treasury Bond Auction held on 27<sup>th</sup> February 2015 on the premise that, only Bids to value of amount of Rs. 2.608 billion first recommended by the PDD, should have been accepted at that Auction.

This Footnote correctly observes that, the Auditor General's computations are founded on assumptions.

The comments we have made with regard to the second paragraph of Footnote 21, apply here to.

#### Footnote 23

Footnote 23 refers to Section 6.3 of the main body of the Report which considers Auditor General's estimate of the loss resulting from the Treasury Bond Auction held on 27<sup>th</sup> February 2015, if Bids to value of Rs. 20 billion had been accepted at that Auction.

This Footnote is correct since the third estimate of the alleged loss by the Auditor General is entirely hypothetical and irrelevant.

#### Footnote 24

Footnote 24 refers to Section 8.1 of the main body of the Report.

Footnote 24 refers to evidence placed before COPE when it states that, there was no evidence to show that, Mr. Mahendran, Deputy Governor Silva or Deputy Governor Weerasinghe played a role in the Treasury Bond Auctions held on 29<sup>th</sup> March 2016.

We are unaware of the details of the evidence placed before COPE.

However, we add that, there is no documentary evidence before us which establishes that, Mr. Mahendran, Deputy Governor Silva or Deputy Governor Weerasinghe played a role in the Treasury Bond Auctions held on 29<sup>th</sup> March 2016.

#### Footnote 25

Footnote 25 refers to Section 8.1 of the main body of the Report.

This Footnote observes that, there were shortcomings in the acceptance of Bids at the Treasury Bond Auction held on 29<sup>th</sup> March 2016 and recommends a detailed investigation into this Auction.

#### Footnote 26

Footnote 26 also refers to Section 8.1 of the main body of the Report.

This Footnote observes that Perpetual Treasuries Ltd has made large profits by the sale of Treasury Bonds in the Secondary Market.

The Footnote goes on to recommend that an investigation should be held to ascertain whether Perpetual Treasuries Ltd sold these Treasury Bonds to the EPF or other State owned Institutions and in to the transactions of the EPF.

#### Footnote 27

Footnote 27 refers to Section 8.2 of the main body of the Report

This Footnote observes that, the inquiry by COPE was essentially focused on the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and detailed evidence was not obtained with regard to the Treasury Bond Auction held on 29<sup>th</sup> March 2016.

Further, this Footnote observes that, COPE has not looked into the other Treasury Bond Auctions held from January 2014 to May 2016.

This Footnote recommends that a detailed investigation be held into the Treasury Bond Auctions held and the Direct Placements accepted from the years 2008 to 2016 and further recommends that, a Forensic Audit be conducted.

#### Footnote 28

Footnote 28 refers to Section 8.2 of the main body of the Report which considers Auditor General's estimate of the loss resulting from the Treasury Bond Auction held on 29<sup>th</sup> March 2016.

This Footnote correctly observes that, the Auditor General's computations are founded on assumptions.

#### Footnote 29

Footnote 29 refers to Section 9.1 of the main body of the Report.

Footnote 29 comments that, funds of the EPF have been used to the advantage of Primary Dealers during the past 6 years and that this situation still continues.

The Footnote recommends that improved Investment Schemes should be introduced at the EPF and that Legislation should be introduced to protect the Investments of the EPF.

#### Footnote 30

Footnote 30 refers to Section 9.3 of the main body of the Report.

Footnote 30 observes that, Officials of the CBSL had stated that the Coupon Rate of 12.5% *per annum* had been determined on the basis of a formula.

#### Footnote 31

Footnote 31 refers to Section 9.4 of the main body of the Report.

Footnote 31 suggests that the title of Section 9.4 be amended in the main body of the Report.

#### Footnote 32

Footnote 32 also refers to Section 9.4 of the main body of the Report.

Footnote 32 is factually accurate to the extent that the Operations Manual of the PDD proceeds on the basis that Auctions would be the main method of issuing Treasury Bonds.

#### **The telephone calls between a few members of that COPE and Arjun Aloysius**

On 16<sup>th</sup> November 2017, when a witness from the Criminal Investigation Department was giving evidence, learned Additional Solicitor General produced, marked “C350”, a “Forensic Report on Communication Information Analysis” prepared by that witness and the Criminal Investigation Department.

This Report, *inter alia*, stated that, the Criminal Investigation Department had carried out a forensic analysis of data extracted from a mobile phone used by Mr. Arjun

Aloysius and also data furnished to the Commission of Inquiry by several Telecommunication Service Providers.

Thereafter, learned Additional Solicitor General moved to produce, marked “**C352**”, a List which set out only the number of any telephone calls, Text Messages or Viber or Whatsapp exchanged between the mobile phone used by Mr. Arjun Aloysius and telephones used by members of COPE of the Eighth Parliament during the period from 06<sup>th</sup> May 2016 to 28<sup>th</sup> October 2016 when the Inquiry conducted by COPW was underway.

The Commission of Inquiry allowed the application made by learned Additional Solicitor General and permitted this List to be produced in evidence since it could be relevant when the Commission of Inquiry considered the Report of COPE and also since it would assist the Commission of Inquiry when it assessed the manner in which Mr. Arjun Aloysius conducted himself with regard to Perpetual Treasuries Ltd.

The Commission of Inquiry had not ordered any Telecommunication Service Provider to furnish details of the telephone records of members of COPE and has not requested the Criminal Investigation Department to examine the telephone records of members of COPE.

Learned Additional Solicitor General has assured the Commission of Inquiry that, the telephone records the members of COPE have not been subjected to any investigation or analysis. Learned Additional Solicitor General has also informed the Commission of Inquiry that, the List marked “**C352**” was prepared using only the data extracted from the mobile phone used by Mr. Arjun Aloysius and publicly available information with regard to the telephone numbers used by the members of COPE.

The List marked “**C352**” states that, there had been the following telephonic communications between Mr. Arjun Aloysius and the following 5 members of the COPE of the Eighth Parliament during the from 06<sup>th</sup> May 2016 to 28<sup>th</sup> October 2016 when the Inquiry conducted by COPE was underway:

- (i) Hon. Sujeewa Senasinghe, MP (appointed on 07<sup>th</sup> July 2016)

Incoming Telephone Calls	-	36
Outgoing Telephone Calls	-	26
  
- (ii) Hon. Harshana Rajakaruna, MP

Incoming Telephone Calls	-	13
Outgoing Telephone Calls	-	10



(iii)	Hon. Hector Appuhamy, MP		
	Incoming Telephone Calls	-	13
	Outgoing Telephone Calls	-	10
(iv)	Hon. Dayasiri Jayasekera, MP		
	Incoming Telephone Calls	-	01
	Outgoing Telephone Calls	-	01
(v)	Hon. Ajith Perera, MP		
	Incoming Telephone Calls	-	01
	Outgoing Telephone Calls	-	01

This Commission of Inquiry is only required, *inter alia*, to examine the Report of COPE and assess the findings made in that Report in the light of the fuller evidence and further inquiries made by this Commission of Inquiry.

We note from a perusal of the List marked “**C352**” that, there is no information the Commission of Inquiry can glean from this document, which can assist us in the aforesaid exercise.

The Commission of Inquiry is well aware that, it is not called upon to make any pronouncements or determinations with regard to the conduct of the Inquiry carried out by COPE or the conduct of them members of COPE during the Inquiry. Those are matters solely for the attention of Parliament and are outside the jurisdiction of this Commission of Inquiry. This Commission of Inquiry will not presume to venture into province of Parliament.

It is relevant to note here that, all the members of COPE, including the 5 members of COPE listed above have agreed with all the General Recommendations made by COPE in its Report. As stated earlier, this Commission of Inquiry has found that, the Footnotes made by nine members of COPE including 4 of the members listed above, are, in the main, limited to factual observations and that these Footnotes are not incorrect or unreasonable. We also note that, these nine members of COPE including 4 of the members of COPE listed above, have recommended, by way of Footnote 26, that, an investigation is held to ascertain whether Perpetual Treasuries Ltd has made large profits by the sale of Treasury Bonds in the Secondary Market to the EPF or other State owned Institutions.

It should also be mentioned here that, we have considered the relevance and value of the “Forensic Report on Communication Information Analysis” marked “**C350**” [and

related documents] in a subsequent Chapter of this Report where we, *inter alia*, have concluded that, we cannot use the Data contained in this “Forensic Report on Communication Information Analysis” marked “C350” to arrive at a finding of fact against any person who was not summoned by this Commission of Inquiry to give evidence or against any person who gave evidence before this Commission of Inquiry but was not questioned on the data contained in this Report.

### **The Auditor General’s Report**

The Auditor General’s Report dated 29<sup>th</sup> June 2016 and his updated Report prepared subsequently, are both included in the COPE Report, which was produced in evidence. COPE has taken the Auditor General’s Reports into consideration, when COPE prepared its Report and made its recommendations. All these Reports are annexed to our Report and are also available in the public domain.

Therefore, we do not need to further consider the Auditor General’s Reports, in our Report.

It will suffice to say, for the purposes of this Chapter that, the Auditor General has computed his estimates of the “අවාසිය” [“loss”] in the translation of the Report into English] resulting from the Treasury Bond Auction held on 27<sup>th</sup> February 2015. These estimates computed by the Auditor General are based on several assumptions which include:

- (i) An assumption that, the acceptance, at a Treasury Bond Auction, of a Bid at a Price which is *at a discount*, is *per se* a loss to the Government;
- (ii) An assumption that, the prevailing Yield Rate for 30-year Treasury Secondary Market Bonds in the week prior to 27<sup>th</sup> February 2015 had been 9.48%;
- (iii) An assumption that, if Treasury Bonds to the value of the amount of Rs. 1 billion that had been offered at the Auction *or* Treasury Bonds to the value of Rs. 2. 608 billion as initially recommended by the PDD had been accepted at the Auction, the balance funds required on 02<sup>nd</sup> March 2015 could have been raised at or about the aforesaid Yield Rate of 9.48% *or* at or about the Weighted Average Yield Rates at which Treasury Bonds to value of Rs. 1 billion/2. 608 billion would have been accepted at the Auction;

- (iv) These balance funds could have been raised, at the aforesaid costs, by borrowing from Bank of Ceylon or the People's Bank by drawing on the Overdraft Facilities made available to the Government by those Banks or by accepting Direct Placements from the EPF [provided the EPF had available funds] or from other Primary Dealers in the Market.

Using these assumptions, the Auditor General has computed his estimates of the ක්ෂණික ["immediately"] in the translation of the Report into English] loss resulting from the Treasury Bond Auction held on 27<sup>th</sup> February 2015 in the following three scenarios:

- (i) The loss resulting from the acceptance of Bids to the value of Rs. 10.058 billion instead of only accepting Bids to the value of the sum of Rs. 1.403 billion which corresponded to accepting Bids to the value of the sum of Rs. 1 billion that was offered - the Auditor General has estimated this loss at Rs. 889.538 million;
- (ii) The loss resulting from the acceptance of Bids to the value of Rs. 10.058 billion instead of only accepting Bids to the value of the sum of Rs. 2.608 billion as first recommended by the PDD - the Auditor General has estimated this loss at Rs. 688.538 million;
- (iii) The loss which would have resulted if Bids to the value of Rs. 20 billion had been accepted [as first suggested by Mr. Mahendran] - the Auditor General has estimated this loss at Rs. 2.730 billion.

The aforesaid third scenario presented by the Auditor General is entirely hypothetical and is irrelevant.

As mentioned earlier, these are computations of the Auditor General's estimates of the immediate loss caused as a result of the Treasury Bond Auction held on 27<sup>th</sup> February 2015.

The Auditor General has not looked into or attempted to estimate any future or consequential losses resulting from this Auction. In this connection, the Auditor General has stated, in his Report, “නවද ඉහතින් දක්වා ඇති ඇස්තමේන්තුගත අවාසි එම දිනට ක්ෂණිකව ඇති වූ / ඇති විය හැකි තත්ත්වය පමණක් වන අතර එමගින් දීර්ඝකාලීනව ඇතිවන බලපෑමද සලකා බැලුවහොත් එම විකල්ප අවාසි තවත් ඉහළ යාමට ඇති ඉඩකඩද බැහැර කළ නොහැක.”.

As stated earlier, Hon. Sunil Handunetti, MP, who chairs the COPE of the Eight Parliament which conducted an inquiry into this matter and to which the Auditor General's Report was submitted, said that, COPE accepted the estimate of loss

computed by the Auditor General based on the second scenario presented by the Auditor General - *ie*: at Rs. 688.538 million.

We will examine this issue in the next Section.

**Section 19.2.15 - Did the Treasury Bond Auction held on 27<sup>th</sup> February 2015 cause a loss to the Government? If so, how much was it?**

**Did the Treasury Bond Auction held on 27<sup>th</sup> February 2015 cause a loss to the Government?**

As set out above and as stated in the Option Sheet marked “**C39B5**” prepared by the PDD, the PDD first wished to recommend to the Tender Board that, the CBSL should accept 12 Bids with an aggregate Face Value of Rs. 2.608 billion and a Weighted Average Yield Rate of 10.7244%, at the Treasury Bond Auction held on 27<sup>th</sup> February 2015.

All these 12 Bids were at Bid Prices, which were at a “Premium”.

Thus, the Bid Prices of these 12 Bids ranged from Rs. 119.33420 down to Rs. 102.20700 and the Yield Rates [Net of Tax] ranged from 9.3510% up to 10.9998%.

If these 12 Bids had been accepted at the Auction [as the PDD initially wished to recommend and set out in its Option Sheet marked “**C39B5**”] the CBSL would have received an aggregate sum of Rs. 2,731,917,786/- [Rs. 2.732 billion] in Settlement, on 02<sup>nd</sup> March 2015, as evidenced by the Bids Received Sheet marked “**C39B9**”.

The evidence establishes that, prior to 27<sup>th</sup> February 2015, the PDD had raised a sum of Rs. 3.4 billion for Settlement on 02<sup>nd</sup> March 2015, by accepting Direct Placements to that value.

Therefore, if the aforesaid 12 Bids with an aggregate Face Value of Rs. 2.608 billion had been accepted [as the PDD initially wished to recommend and set out in its Option Sheet marked “**C39B5**”], the PDD would have succeeded in raising, at the conclusion of the Auction held on 27<sup>th</sup> February 2015, an aggregate sum Rs. 6.132 billion which would have been received on 02<sup>nd</sup> March 2015 - *ie*: Rs. 3.4 billion + Rs. 2.732 billion = Rs. 6.132 billion.

Since the aggregate amount that had to be raised on 02<sup>nd</sup> March 2015, to meet the requirement of the Department of Treasury Operations, was Rs. 13.55 billion, the PDD would have then had to raise a further sum of Rs. 7.418 billion, on 27<sup>th</sup> February 2015 or on 02<sup>nd</sup> March 2015 [28<sup>th</sup> February 2015 and 01<sup>st</sup> March 2015 were not working days] - *ie*: Rs.13.55 billion – Rs. 6.132 billion = Rs. 7.418 billion.

The evidence before us establishes that, the PDD intended that, after the Auction was concluded on 27<sup>th</sup> February 2015, the PDD will raise the balance funds that were required on 02<sup>nd</sup> March 2015, by accepting Direct Placements for the value of the balance funds which were required.

The evidence before us establishes that, the PDD would have had no difficulty in raising the aforesaid sum of Rs. 7.418 billion for Settlement on 02<sup>nd</sup> March 2015, by accepting Direct Placements for that sum of Rs. 7.418 billion, at a Bid Price of Rs. 102.20700 [which was the lowest Bid Price among the aforesaid 12 Bids which the PDD initially recommended be accepted].

Thus, it follows that, if the aforesaid sum of Rs. 7.418 billion had been raised by accepting Direct Placements for that sum of Rs. 7.418 billion at a Bid Price of Rs. 102.20700 [which we will treat as Rs. 102.21 from now on], the CBSL would have received a sum of Rs. 7.582 billion - ie:  $\text{Rs. } 7.418 \text{ billion} / 100 \times \text{Rs. } 102.21 = \text{Rs. } 7.582 \text{ billion}$ .

However, the evidence establishes that, Mr. Mahendran intervened at the PDD on 27<sup>th</sup> February 2015 and instructed the PDD to accept Bids to the value of Rs. 10.058 billion and that, as a result of this instruction given by Mr. Mahendran, the PDD prepared the second Option Sheet marked “**C39B6**” which states a recommendation that, Bids to the value of Rs. 10.058 billion be accepted.

We are satisfied that, the PDD prepared this second Option Sheet marked “**C39B6**” which states a recommendation that, Bids to the value of Rs. 10.058 billion be accepted, only because Mr. Mahendran specifically instructed the PDD to accept Bids to the value of Rs. 10.058 billion.

The evidence also establishes that, the Tender Board decided to accept the recommendation set out in the second Option Sheet marked “**C39B6**” and issue Treasury Bonds with a Face Value of Rs. 10.058 billion, only because Mr. Mahendran instructed the Tender Board to do so.

We are satisfied that, if not for Mr. Mahendran’s instruction, the Tender Board would have accepted Bids to the value of Rs. 2.608 billion [as the PDD wished to recommend and set out in its Option Sheet marked “**C39B5**”] or accepted Bids in a similar amount. In this connection we note, that, the Chairman of the Tender Board, Deputy Governor Samarasiri, in reply to Questions asked by the Commission of Inquiry, stated that the Tender Board would have accepted Bids in the region of Rs. 2.6 billion, if Mr. Mahendran had not given him instructions that, Bids to the value of Rs. 10.058 billion must be accepted.

On aforesaid the basis, we conclude that, the CBSL accepted Bids to the value of Rs 10.058 billion at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 [and did not

accept Bids to the value of Rs. 2.608 billion as the PDD had initially wished to recommend] only because and as a direct result of Mr. Mahendran's instruction, to both the PDD and the Tender Board, that, Bids to the value of Rs. 10.058 billion must be accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015.

It is evident that, Mr. Mahendran's decision to accept Bids to the value of Rs. 10.058 billion [and not Bids to the value of Rs. 2.608 billion as the PDD had initially wished to recommend] resulted in the CBSL accepting a further 14 Bids with an aggregate Face Value of Rs. 7.450 billion - *ie*: a further 14 Bids over and above the first 12 Bids that would have been accepted if Bids to the value of only Rs. 2.608 billion had been accepted as the PDD had initially wished to recommend.

Only the first of these further 14 Bids [which was for Rs. 100 million] was at a Bid Price which was at a "Premium". The other 13 Bids were at Bid Prices which were at a "Discount".

Thus, the Bid Prices of these further 14 Bids ranged from Rs. 101.75800 down to Rs. 90.16990 and at Yield Rates ranging from 11.0502% up to 12.5009%.

As a result of accepting these further 14 Bids, the Weighted Average Yield Rate at the Auction increased to 11.7270%.

Since all but one of these further 14 Bids were at a "Discount, the acceptance of these 14 Bids resulted in the CBSL receiving only an aggregate sum of Rs. 6,925,882,900/- [Rs. 6.926 billion] in Settlement of these 14 Bids on 02<sup>nd</sup> March 2015, although these 14 Bids had a Face Value of Rs. 7.450 billion.

We note that, all these further 14 Bids were accepted at Bid Prices which were lower than the Bid Price of Rs. 102.21 at which, as set out earlier, we consider the CBSL could have raised, by accepting Direct Placements, the aforesaid sum of Rs. 7.450 billion which was the Face Value of these 14 Bids.

If the CBSL had been permitted by Mr. Mahendran to raise this sum of Rs. 7.450 billion by accepting Direct Placements [which the PDD had earlier intended to do] the CBSL would have received a sum of Rs.7.615 billion in Settlement - *ie*: Rs.7.450 billion/100 x Rs. 102.21 = Rs. 7.615 billion].

However, as stated earlier, the acceptance of the further 14 Bids at the Auction upon the instructions of Mr. Mahendran resulted in the CBSL received only an aggregate sum of Rs. 6.926 billion, as stated earlier.

Therefore, it is reasonable to conclude that, Mr. Mahendran's intervention and instruction to accept Bids to the value of Rs. 10.058 billion at the Auction held on 27<sup>th</sup> February 2015, was the direct cause of the CBSL receiving only Rs. 6.926 billion on



02nd March 2015 instead of receiving the aforesaid sum of Rs. 7.615 billion which the CBSL would have received if Mr. Mahendran had permitted the PDD to proceed with its initial intention to recommend that Bids to a value of Rs. 2.608 billion be accepted at the Auction and to raise the remaining funds that were required on 02<sup>nd</sup> March 2015, by accepting Direct Placements

### **How much was the loss?**

As stated above, we are of the view that the CBSL would have raised the aforesaid sum of Rs. 7.450 billion at a Bid Price of Rs. 102.21, which would have resulted in the CBSL receiving an aggregate amount of Rs. Rs. 7,614,645,000/-.

However, as a result of accepting the further 14 Bids for the same value of Rs. 7.450 billion, the CBSL received only an aggregate sum of Rs. 6,925,882,900/-.

Thus, we are of the opinion that as a result of Mr. Mahendran's intervention and instruction, the CBSL lost the opportunity to receive a sum of Rs. 688,762,100/- [i.e. Rs. 7,614,645,000/- - Rs. 6,925,882,900/- = Rs. 688,762,100/-]

We are of the view that this is an avoidable loss of Rs. 688,762,100/- which can be correctly and reasonably regarded to be loss incurred by the Government of Sri Lanka, as a direct result of Mr. Mahendran's intervention in the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and the instructions he gave to both the PDD and the Tender Board that Bids to be value of Rs. 10.058 billion must be accepted at the Auction.

We note that the aforesaid computation is in line with the second alternative computation of loss of Rs. 688,538,600/- estimated by the Auditor General.

We also note that Hon. Sunil Hadunnetti MP, Chairman of the COPE of the Eighth Parliament, stated that, the COPE considered, as reasonable, this estimated loss of Rs. 688,538,600/- computed by the Auditor General.

We note that the letter dated 07<sup>th</sup> December 2016 written by the World Bank and marked "**AM37**" by Mr. Mahendran, states, *inter alia*, "..... we are not aware of international best practices to accurately calculate the potential loss in the case of the past bond auction. Accurately quantifying the loss would require knowledge of the actual cost of the bond placement under non-competitive allocations (a necessary counterfactual). In our view that counterfactual cannot be accurately calculated on an ex post basis as it depends on the market conditions on the auction date."

We consider that, the aforesaid computation we adopted is in line with the principle set out by the World Bank that, the computation of an estimated loss should be based on the actual cost of raising the funds by way of "non-competitive allocations", which are,



essentially, in the nature of Direct Placements. As stated earlier, we consider that, we can correctly and reasonably determine that, Direct Placements for Rs. 7.450 billion could have been raised on 27<sup>th</sup> February 2015 or 02<sup>nd</sup> March 2015, at a Bid Price Rs.102.21.

We also consider it necessary to examine whether there was further loss or damage that is likely to have resulted from the Treasury Bond Auction held on 27<sup>th</sup> February 2015.

The evidence establishes that; (i) the acceptance of Bids with a Face Value of Rs. 10.058 billion, when only Rs. 1 billion was offered and the fact that Bids were accepted at Yield Rates which were much higher than the Yield Rates which the Market considered reasonable Yield Rates for a 30 Year Treasury Bond on 27<sup>th</sup> February 2015; and (ii) Perpetual Treasuries Ltd obtaining 50% of the Bids which were accepted at the Auction; caused considerable disruption and concern in the Market.

We are of the view that, these events undoubtedly caused substantial damage to the reputation of the CBSL and the PDD.

However, this damage, though grave, is not quantifiable.

There is also evidence which establishes that, the results of the Treasury Bond Auction on 27<sup>th</sup> February 2015 at which 30 Year Treasury Bonds were accepted at Yield Rates as high as 12.5009%, coupled with the removal, on the same day, of the Interest Rate of 5% *per annum* paid on the overnight Standing Deposit Facility, resulted in an increase in Treasury Bond Yield Rates and the Interest Rates.

However, the evidence establishes that, over a period of time, especially after the reduction, on 11<sup>th</sup> April 2015, of the Interest Rates applied to the overnight Standing Deposit Facility and the Standing Lending Facility, Interest Rates declined and Treasury Bond Yield Rates also declined over time.

We also aware that, that there are several factors which influence movements in Interest Rates and Yield Rates and that it would be artificial to take the view that, the results of the Treasury Bond Auction held on 27<sup>th</sup> February 2015, is the sole reason for the increase of Interest Rates and Yield Rates.

It has to be recognized that, after the Auction of 27<sup>th</sup> February 2015, there were a series of intervening events and developments in the Economy, which had an effect on Interest Rates and Yield Rates and the Government Securities Market. Further, it hardly needs to be said here that, the economy of Sri Lanka faces several issues, including a massive debt burden, a balance of payments deficit, a trade deficit and several other difficulties which need not be listed here.

In these circumstances it is unreasonable to ascribe all the economic woes of Sri Lanka and the overall increase in Interest Rates and Treasury Bond Yield Rates after February 2015, solely to the Treasury Bond Auction of 27<sup>th</sup> February 2015.

In this connection, when this Commission of Inquiry considers and whether a loss was caused to the Government as a result of the Treasury Bond Auction of 27<sup>th</sup> February 2015 and, if so, attempts to estimate such loss, we are obliged to keep in mind the principles of the Law relating to Causation and Remoteness of Damages. As McKerron states in 'The Law of Delict' [Seventh Edition, p. 136-137], *"To hold a wrongdoer responsible for all consequential loss directly attributable to his wrongful act would be to extend the limits of liability too far. 'In the varied web of affairs, the law must abstract some consequences as relevant, not perhaps on grounds of pure logic but simply for practical reasons.'* To justify the imposition of liability there must be a reasonable connection between the loss sought to be recovered and the particular interest of the plaintiff which is immediately affected. The question whether such a connection existed or not must be determined by applying common sense to the facts of the particular case."

In this connection we note that the Auditor General has not sought to compute any consequent or long-term losses which were caused by the Treasury Bond Auction held on 27<sup>th</sup> February 2015. We note that, when Hon. Sunil Hadunnetti, MP gave evidence before us, he stated that COPE did not inquire into consequential losses or long terms losses.

Finally, we have earlier determined that, the Government of Sri Lanka suffered an avoidable loss of Rs. 688,762,100/- as a direct result of Mr. Mahendran's intervention in the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and the instructions he gave to both the PDD and the Tender Board that Bids to be value of Rs. 10.058 billion must be accepted at the Auction.

We are of the considered opinion that, Mr. Mahendran is liable and responsible for this loss and that this loss should be recovered from Mr. Mahendran.

We have also, earlier in this Report, determined that, Mr. Mahendran directed that Rs. 10.058 billion be accepted for the improper, wrongful and *mala fide* collateral purpose of enabling Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds at that Auction, at low Bid Prices and high Yield Rates and that, Mr. Mahendran provided "inside information" ["price sensitive information"] to Perpetual Treasuries Ltd, which Perpetual Treasuries Ltd used to its benefit at the Treasury Bonds Auction held on 27<sup>th</sup> February 2015.

Therefore, we are also of the considered opinion that, Perpetual Treasuries Ltd also should be held liable and responsible for this loss Rs. 688,762,100/- and that this loss

should also be recovered from Perpetual Treasuries Ltd. In this connection, it appears to us that, Section 21D (5) of the Registered Stock and Securities Ordinance No. 7 of 1937, as amended, is relevant.

Further, we are of the view that, the evidence before us establishes that, when Perpetual Treasuries Ltd used and gained and benefitted from “inside information” [“price sensitive information”] at the Treasury Bond Auction held on 27<sup>th</sup> February 2015, Perpetual Treasuries Ltd has knowingly violated and acted in breach of Section 6.2, 6.6, 6.7 and 7.1 of the Code of Conduct for Primary Dealers, which has been issued by the CBSL under and in terms of the Regulations issued under the Provision of the Registered Stock and Securities Ordinance No. 7 of 1937, as amended.

We note that, Section 56A(1) of the Registered Stock and Securities Ordinance stipulates that *“Any person who - (a) fails to comply with any provision of this Ordinance or any regulation, order, or direction given thereunder; ..... shall be guilty of an offence under this Ordinance.”*

We are of the view that, aforesaid violation and breach, by Perpetual Treasuries Ltd, of Section 6.2, 6.6, 6.7 and 7.1 of the Code of Conduct for Primary Dealers, renders Perpetual Treasuries Ltd liable for prosecution for an offence in terms of the aforesaid S: 56A(1) of the Registered Stock and Securities Ordinance.

We note that, Section 56A(2) stipulates that *“Any person guilty of an offence under this Ordinance shall be liable on conviction after summary trial before a Magistrate, to imprisonment for a term not exceeding five years or to a fine not exceeding ten million rupees or where the offence has resulted in monetary loss or monetary gain or a loss or gain which is quantifiable in monetary terms to any person, to a fine equivalent to twice the value of such loss or gain or to both such imprisonment and fine.”*

We are of the view that, the Hon. Attorney General or other appropriate authorities should consider instituting Proceedings against Perpetual Treasuries Ltd, in terms of the aforesaid provisions of the Law and, in the event of a conviction being entered by a learned Magistrate after Summary Trial, Perpetual Treasuries Ltd could be held liable to a fine equivalent to twice the value of that sum.

Further, we are of the view that, the evidence placed before us establishes that Mr. Arjun Aloysius and Mr. Kasun Palisena were both parties to and directly responsible for the aforesaid violation and breach of Section 6.2, 6.6, 6.7 and 7.1 of the Code of Conduct for Primary Dealers, by Perpetual Treasuries Ltd.

In this connection, we note that, Section 56B of the Registered Stock and Securities Ordinance states that, *“Where the person convicted of an offence under the Ordinance is a body corporate, every person who at the time of the commission of the offence was a director or an officer of the body corporate shall be deemed to be guilty of that*

*offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to avoid the commission of such offence.”.*

We are of the view that, the evidence placed before us establishes that, Mr. Arjun Aloysius and Mr. Kasun Palisena were both parties to and directly responsible for the aforesaid violation and breach of Section 6.2, 6.6, 6.7 and 7.1 of the Code of Conduct for Primary Dealers, by Perpetual Treasuries Ltd and, in our view, Mr. Arjun Aloysius and Mr. Kasun Palisena fall within the scope of the description “*every person who at the time of the commission of the offence was a director or an officer of the body corporate shall be deemed to be guilty of that offence.*” in Section 56B of the Registered Stock and Securities Ordinance No. 7 of 1937.

**Section 19.3 - The Treasury Bond Auctions held in September and October 2015**

**Auctions held in September 2015**

As set out in the Table in **ANNEX 1** to Section 19.1 of this Chapter, during the month of September 2015, Treasury Bond Auctions were held on 08<sup>th</sup> September 2015, 15<sup>th</sup> September 2015 and 28<sup>th</sup> September 2015.

As set out in the Table in **ANNEX 2** to Section 19.1 of this Chapter, we have identified that the Treasury Bond Auctions held on 08<sup>th</sup> September 2015 and 15<sup>th</sup> September 2015 require scrutiny, for the reason that, soon after those Auctions, there have been unusual transactions, in the Secondary Market, upon some Treasury Bonds which were issued at the Auction.

It is necessary to state here that, in the light of evidence placed before us with regard to Transactions entered into, in the Secondary Market, by both Perpetual Treasuries Ltd and Pan Asia Banking Corporation [“PABC”] upon Treasury Bonds which were issued at these Auctions, we will identify the Treasury Bonds which Perpetual Treasuries Ltd and PABC obtained at these Auctions.

On 08<sup>th</sup> September 2015, the following Auctions were held:

<b><u>TREASURY BOND AUCTIONS HELD ON</u></b>			
<b><u>08<sup>TH</sup> SEPTEMBER 2015</u></b>			
ISIN	TENOR	AMOUNT OFFERED	AMOUNT ACCEPTED
LKB00520E014	04 Years 08 Months	2 billion	3.735 billion
LKB01023I019	08 Years	2 billion	4.470 billion
LKB01226F014	10 Years 09 Months	3 billion	-
LKB01530E152	14 Years 08 Months	3 billion	7.427 billion

As set out in the Table in **ANNEX 2** to Section 19.1 of this Chapter, we have identified that the Auction at which Treasury Bonds bearing ISIN LKB01023I019 to a value of Rs. 2 billion were offered and Bids to the value of Rs. 4.470 billion were accepted, requires scrutiny because, subsequent to the Auction, there have been unusual Transactions in the Secondary Market upon the Treasury Bonds which were issued at the Auction giving rise to a suspicion that there was an irregularity in the manner in which any one or more of the Primary Dealers and/or the EPF carried out those Transactions.

We note that, at this Auction of Treasury Bonds bearing ISIN LKB01023I019, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs. 2 billion, which constituted 45% of the Bids accepted at this Auction. It is also relevant to state here that, at the same Auction, PABC obtained Treasury Bonds to the value of Rs. 200 million, which constituted 4% of the Bids accepted at this Auction.

For the purpose of completeness, we note that:

- i. At the Auction at which Treasury Bonds bearing ISIN LKB00520E014 were offered, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs. 500 million, which constituted 13% of the Bids accepted at this Auction. All Bids placed by PABC were rejected;
- ii. At the Auction at which Treasury Bonds bearing ISIN LKB01226F014 were offered, all Bids were rejected;
- iii. At the Auction at which Treasury Bonds bearing ISIN LKB01530E152 were offered, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs. 150 million, which constituted 2% of the Bids accepted at this Auction. PABC obtained Treasury Bonds to the value of Rs. 2.315 billion, which constituted 31% of the Bids accepted at this Auction;

On 15<sup>th</sup> September 2015, the following Auctions were held:

<b><u>TREASURY BOND AUCTIONS HELD ON</u></b>			
<b><u>15<sup>TH</sup> SEPTEMBER 2015</u></b>			
ISIN	TENOR	AMOUNT OFFERED	AMOUNT ACCEPTED
LKB00520E014	04 Years 07 Months	3 billion	3.100 billion
LKB00922J011	07 Years	5 billion	9.559 billion

LKB01025H016	09 Years 10 Months	5 billion	5.241 billion
LKB01528I017	12 Years 11 Months	3 billion	10.884 billion

As set out in the Table in **ANNEX 2** to Section 19.1 of this Chapter, we have identified that the Auction at which Treasury Bonds bearing ISIN LKB00922J011 to a value of Rs. 5 billion were offered and Bids to the value of Rs. 9.559 billion were accepted, requires scrutiny because, subsequent to the Auction, there have been unusual Transactions, in the Secondary Market, upon the Treasury Bonds which were issued at the Auction giving rise to a suspicion that there was an irregularity in the manner in which any one or more of the Primary Dealers and/or the EPF carried out those Transactions. We note that at the Auction of Treasury Bonds bearing ISIN LKB00922J011, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs. 3.5 billion, which constituted 37% of the Bids accepted at this Auction. The Bids placed by PABC were rejected.

For the purpose of completeness, we note that:

- i. At the Auction of Treasury Bonds bearing ISIN LKB00520E014, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs. 100 million, which constituted 3% of the Bids accepted at this Auction. PABC obtained Treasury Bonds to the value of Rs. 300 million, which constituted 10% of the Bids accepted at this Auction;
- ii. At the Auction of Treasury Bonds bearing ISIN LKB01025H016, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs. 1.3 billion, which constituted 25% of the Bids accepted at this Auction. The Bids placed by PABC were rejected;
- iii. At the Auction of Treasury Bonds bearing ISIN LKB01528I017, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs. 1.5 billion, which constituted 14% of the Bids accepted at this Auction and PABC obtained



Treasury Bonds to the value of Rs. 200 million, which constituted 2% of the Bids accepted at this Auction.

Although the Treasury Bond Auctions held on 28<sup>th</sup> September 2015 have not been highlighted on an application of Tests (A) to (G) set out in Section 19.1 of this Chapter, we consider that, for the purpose of completeness, we should also set out the relevant details with regard to those Auctions.

On 28<sup>th</sup> September 2015, the following Auctions were held:

<b><u>TREASURY BOND AUCTIONS HELD ON</u></b>			
<b><u>28<sup>TH</sup> SEPTEMBER 2015</u></b>			
ISIN	TENOR	AMOUNT OFFERED	AMOUNT ACCEPTED
LKB006191155	03 Years 11 Months	2 billion	3 billion
LKB00821H019	05 Years 10 Months	3 billion	6.5 billion
LKB01024A014	08 Years 03 Months	4 billion	-
LKB01528I017	12 Years 11 Months	4 billion	3.660 billion

For the purpose of completeness, we note that:

- i. At the Auction of Treasury Bonds bearing ISIN LKB00619I155, all Bids placed by Perpetual Treasuries Ltd and PABC were rejected;
- ii. At the Auction of Treasury Bonds bearing ISIN LKB00821H019, all Bids placed by Perpetual Treasuries Ltd and PABC were rejected;
- iii. At the Auction of Treasury Bonds bearing ISIN LKB01024A014, all Bids placed by Perpetual Treasuries Ltd and PABC were rejected;
- iv. At the Auction of ISIN LKB01528I017, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs. 1 billion, which constituted 27% of the Bids accepted at this Auction. All the Bids placed by PABC were rejected.

#### **Auctions held in October 2015**

As set out in the Table in **ANNEX 1** to Section 19.1 of this Chapter, during the month of October 2015, Treasury Bond Auctions were held on 26<sup>th</sup> October 2015 and 30<sup>th</sup> October 2015.

As set out in the Table in **ANNEX 2** to Section 19.1 of this Chapter, we have identified that, the Treasury Bond Auction held on 30<sup>th</sup> October 2015 requires scrutiny, for the reason that, soon after that Auction, there been unusual transactions in the Secondary Market upon some of the Treasury Bonds which were issued at the Auction.

Here too, in the light of evidence placed before us with regard to Transactions entered into, in the Secondary Market, by both Perpetual Treasuries Ltd and Pan Asia Banking Corporation ["PABC"] upon Treasury Bonds which were issued at these Auctions, we will identify the Treasury Bonds which Perpetual Treasuries Ltd and PABC obtained at these Auctions.

On 30<sup>th</sup> October 2015, the following Auctions were held:

<b><u>TREASURY BOND AUCTIONS HELD ON</u></b>			
<b><u>30<sup>TH</sup> OCTOBER 2015</u></b>			
ISIN	TENOR	AMOUNT OFFERED	AMOUNT ACCEPTED
LKB00520E014	04 Years 06 Months	3 billion	3.669 billion
LKB01024A014	08 Years 02 Months	3 billion	-
LKB01530E152	14 Years 06 Months	3 billion	6.7 billion

As set out in the Table in **ANNEX 2** to Section 19.1 of this Chapter, we have identified that the Auction at which Treasury Bonds bearing ISIN LKB01530E152 to a value of Rs. 3 billion were offered and Bids to the value of Rs. 6.7 billion were accepted, requires scrutiny because, subsequent to the Auction, there have been unusual Transactions in the Secondary Market upon the Treasury Bonds which were issued at the Auction giving rise to a suspicion that there was an irregularity in the manner in which any one or more of the Primary Dealers and/or the EPF carried out those Transactions.

We note that, at this Auction of Treasury Bonds bearing ISIN LKB01530E152, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs. 1.05 billion, which constituted 16% of the Bids accepted at this Auction. It is also relevant to state here that, at the same Auction, PABC obtained Treasury Bonds to the value of Rs. 3 billion which constituted 45% of the Bids accepted at this Auction.

For the purpose of completeness, we note that:

- i. At the Auction at which Treasury Bonds bearing ISIN LKB00520E014 were offered, the Bids placed by Perpetual Treasuries Ltd were rejected. PABC obtained Treasury Bonds to the value of Rs. 400 million, which constituted 11% of the Bids accepted at this Auction;
- ii. At the Auction at which Treasury Bonds bearing ISIN LKB01024A014 were offered, all Bids were rejected.

Although the Treasury Bond Auctions held on 26<sup>th</sup> October 2015 have not been highlighted on an application of Tests (A) to (G) set out in Section 19.1 of this Chapter, we consider that, for the purpose of completeness, we should also set out the relevant details with regard to those Auctions.

On 26<sup>th</sup> October 2015, the following Auctions were held:

<b><u>TREASURY BOND AUCTIONS HELD ON</u></b>			
<b><u>26<sup>TH</sup> OCTOBER 2015</u></b>			
ISIN	TENOR	AMOUNT OFFERED	AMOUNT ACCEPTED
LKB00619I155	03 Years 10 Months	7 billion	8 billion
LKB00922J011	06 Years 11 Months	7 billion	6.222 billion
LKB01528I017	12 Years 10 Months	6 billion	8.880 billion
LKB02035C155	19 Years 04 Months	10 billion	22.340 billion

For the purpose of completeness, we note that:

- i. At the Auction of Treasury Bonds bearing ISIN LKB01528I017, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs. 900 million, which constituted 10% of the Bids accepted at this Auction. PABC obtained Treasury Bonds to the value of Rs. 50 million, which constituted 1% of the Bids accepted at this Auction;
- ii. At the Auction of Treasury Bonds bearing ISIN LKB00619I155, the Bids placed by Perpetual Treasuries Ltd were rejected. The Bids placed by PABC were also rejected;
- iii. At the Auction of Treasury Bonds bearing ISIN LKB00922J011, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs. 300 million, which constituted 2% of the Bids accepted at this Auction. The Bids placed by PABC were rejected;
- iv. At the Auction of Treasury Bonds bearing ISIN LKB02035C155, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs. 2.25 billion, which constituted 10% of the Bids accepted at this Auction. PABC obtained Treasury Bonds to the value of Rs. 3.9 billion, which constituted 17% of the Bids accepted at this Auction.

It should be noted that, there is no evidence before us which indicate that, there was any irregularity in the conduct of any of the aforesaid Auctions.

Instead, as stated earlier, the aforesaid Auctions were identified as requiring scrutiny, due to evidence relating to Transactions in the Secondary Market upon Treasury Bonds, which were issued at the aforesaid Auctions.

This evidence will be considered in the subsequent Chapters of this Report.

#### **Section 19.4 - The Treasury Bond Auctions held in the month of February 2016**

As set out in the Table in **ANNEX 1** to Section 19.1 of this Chapter, during the month of February 2016, Treasury Bond Auctions were held on 05<sup>th</sup> February 2016 and 29<sup>th</sup> February 2016.

As set out in the Table in **ANNEX 2** to Section 19.1 of this Chapter, we have identified that the Treasury Bond Auctions held on 05<sup>th</sup> February 2016 require scrutiny, for the

reason that soon after the Auction, there have been unusual transactions in the Secondary Market upon some Treasury Bonds which were issued at the Auction.

It is necessary to state here that, in the light of evidence placed before us with regard to Transactions entered into, in the Secondary Market, by both Perpetual Treasuries Ltd and Pan Asia Banking Corporation [“PABC”] upon Treasury Bonds which were issued at these Auctions, we will identify the Treasury Bonds which Perpetual Treasuries Ltd and PABC obtained at these Auctions.

On 05<sup>th</sup> February 2016, the following Auctions were held:

<b><u>TREASURY BOND AUCTIONS HELD ON</u></b>			
<b><u>05<sup>TH</sup> FEBRUARY 2016</u></b>			
ISIN	TENOR	AMOUNT OFFERED	AMOUNT ACCEPTED
LKB00520L159	04 Years 10 Months	2 billion	-
LKB01530E152	14 Years 03 Months	3 billion	10.455 billion
LKB02541A016	24 Years 11 Months	5 billion	10.250 billion

As set out in the Table in **ANNEX 2** to Section 19.1 of this Chapter, we have identified that, the Treasury Bond Auction at which Treasury Bonds bearing ISIN LKB02541A016, Bids to the value of Rs. 5 billion offered and Bids to value of Rs. 10.250 billion were accepted, requires scrutiny because, subsequent to the Auction,

there have been unusual Transactions, in the Secondary Market, upon the Treasury Bonds which were issued at the Auction giving rise to a suspicion that there has been an irregularity in the manner in which any one or more of the Primary Dealers and/or the EPF carried out those Transactions.

We note that, at this Auction of Treasury Bonds of bearing ISIN LKB02541A016, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs.6.25 billion, which constituted 61% of the Bids accepted at this Auction. It is also relevant to state here that, PABC obtained Treasury Bonds to the value of Rs. 2.8 billion, which constituted 27% of the Bids accepted at this Auction.

For the purpose of completeness, we note that:

- i. At the Auction at which Treasury Bonds bearing ISIN LKB00520L159 were offered, all Bids were rejected;
- ii. At the Auction at which Treasury Bonds bearing ISIN LKB01530E152, offered, Perpetual Treasuries Ltd obtained Treasury Bonds to the value of Rs. 1.6 billion, which constituted 15% of the Bids accepted at this Auction. PABC obtained Treasury Bonds to the value of Rs. 800 million, which constituted 8% of the Bids accepted at this Auction.

Although the Treasury Bond Auctions held on 29<sup>th</sup> February 2016, have not been highlighted on an application of Tests (A) to (G) set out in Section 19.1 of this Chapter, we consider that, for the purpose of completeness, we should also set out the relevant details with regard to those Auctions

On 29<sup>th</sup> February 2016, the following Auctions were held:

<b><u>TREASURY BOND AUCTIONS HELD ON</u></b>			
<b><u>29<sup>TH</sup> FEBRUARY 2016</u></b>			
ISIN	TENOR	AMOUNT OFFERED	AMOUNT ACCEPTED
LKB01518B013	01 Year 11 Months	3 billion	5.305 billion



LKB00821H019	05 Years 05 Months	3 billion	5.312 billion
LKB01023I019	07 Years 06 Months	3 billion	7.637 billion

For the purpose of completeness, we note that:

- (i) At the Auction of Treasury Bonds bearing ISIN LKB01518B013, the Bids placed by Perpetual Treasuries Ltd were rejected. The Bids placed by PABC were also rejected;
- (ii) At the Auction of Treasury Bonds bearing ISIN LKB00821H019, the Bids placed by Perpetual Treasuries Ltd were rejected. The Bids placed by PABC were also rejected;
- (iii) At the Auction of Treasury Bonds bearing ISIN LKB01023I019, the Bids placed by Perpetual Treasuries Ltd were rejected, PABC obtained Treasury Bonds to the value of Rs. 18 million, which amounted to less than 1 % of the Bids accepted at this Auction.

It should be noted that, there is no evidence before us which indicate that, there was any irregularity in the conduct of any of the aforesaid Auctions.

Instead, as stated earlier, the aforesaid Auctions were identified as requiring scrutiny, due to evidence relating to Transactions in the Secondary Market upon Treasury Bonds, which were issued at the aforesaid Auctions.

This evidence will be considered in the subsequent Chapters of this Report.

**Section 19.5 - The Treasury Bond Auctions held on 24<sup>th</sup> March 2016, 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.**

**Section 19.5.1 - Arjuna Mahendran suspends Reverse REPO Auction on 03<sup>rd</sup> March 2016**

As stated earlier, the Market Operations Committee is required to assess the daily Market Liquidity situation and decide whether to absorb Liquidity from the Market or to inject Liquidity to the market and then use Open Market Operations to achieve the preferred objective.

Further, as stated earlier, the Open Market Operations of the CBSL come under the purview of the Domestic Operations Department.

As stated earlier, Mr. P.W.D.N.R. Rodrigo, who was the Director of the Domestic Operations Department. In March 2016, stated that, on 03<sup>rd</sup> March 2016, Mr. Mahendran had telephoned Mr. Rodrigo and instructed him, that the conduct of Reverse REPO Auctions should be immediately stopped, so as to stop the injection of liquidity into the market through Open Market Operations. In this connection, Mr. Rodrigo said that the *“Governor telephoned me in the morning, and said to immediately stop conducting of reverse REPO Auctions.”* He further stated that *“Governor called me and said immediately stop injection of liquidity through reverse REPO Auctions.”*

Mr. Rodrigo went on to say that, that, Mr. Mahendran had mentioned that the CBSL had earlier increased the Statutory Reserve Requirement in an effort to reduce Liquidity and that the intention of the CBSL was to *“drain liquidity.”* Mr. Mahendran had said that, in this background, Liquidity should not be injected into the market by CBSL and that the CBSL wanted Interest Rates to move up.

In response to a question by learned Deputy Solicitor General whether, *“So, the Governor’s explanation to you, was that he wanted the rates to move up ?”*, Mr. Rodrigo replied *“Yes”*.

Mr. Rodrigo said that, he had been concerned that stopping Reverse REPO Auctions might result in Interest Rates going above the Interest Rate of 8% then applied to the overnight Standing Loan Facility Rate and that he had expressed those concerns to Mr. Mahendran, who had said, *“No, doesn’t matter”* and *“You let it go”*.

Mr. Rodrigo said, that in pursuance of the instructions given by Mr. Mahendran, the CBSL had stopped Reverse REO Auctions from 04<sup>th</sup> March 2016 onwards.

Mr. Rodrigo said that, following this measure, Interest Rates started moving upwards and that, on 29<sup>th</sup> March 2015 and 30<sup>th</sup> March 2015, Interest Rates in the Call Money market had moved beyond the “*Upper Bound*” of 8% *per annum* offered on the overnight Standing Loan Facility and reached 8.03% *per annum* and 8.05% *per annum*.

Mr. Rodrigo also said that, by the end of the month of March, Market Liquidity had decreased to a deficit of Rs. 29 billion and that Interest Rates had climbed to 8.15% *per annum*.

In reply to questions from the Commission of Inquiry, Mr. Rodrigo said, that at the beginning of March, there was excess Liquidity in the market. He went on to say that, the usual trend is that, towards the middle of March, the public requires money for the New Year and, as a result, Liquidity tightens towards the end of March each year.

In response to a question by learned Deputy Solicitor General, Mr. Rodrigo observed that Interest Rates had risen above 8% *per annum*, at a time which corresponded with the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

We observe that, the aforesaid instruction given by Mr. Mahendran on 03<sup>rd</sup> March 2016 to stop Reverse REO Auctions contributed to the decrease in Liquidity and higher Interest Rates which prevailed in the Market during end March 2016 when the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016 were held.

We further observe that, the upward pressure on Yield Rates which was to be seen from about the end of the previous year, was heightened by the aforesaid instruction given by Mr. Mahendran on 03<sup>rd</sup> March 2016 to stop Reverse REPO Auctions.

We further note that, consequently, the Treasury Bond Yield Rates prevailing in the Market Bonds had increased by the time three Bond Auctions were held in end March 2016 – *ie*: between 24<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

As seen later, Perpetual Treasuries Ltd obtained substantial values of Treasury Bonds at high Yield Rates at two of these Auctions – *ie*: at the Treasury Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

We consider that, it can be fairly said that, the aforesaid instruction given by Mr. Mahendran on 03<sup>rd</sup> March 2016 to stop Reverse REO Auctions contributed towards creating circumstances in which Perpetual Treasuries Ltd was able to obtain Treasury

Bonds at high Yield Rates, at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

We note that, in response to questions asked by Chanaka de Silva, Attorney-at-Law, who represented Mr. Mahendran, Mr. Rodrigo said that, on 03<sup>rd</sup> March 2016, when Mr. Mahendran instructed him to stop Reverse REPO Auctions, there was a sum over Rs. 50 billion excess Liquidity in the Market. Mr. Rodrigo also acknowledged that, the Sri Lanka Rupee had depreciated against the US Dollar in the month of February 2015 and that, the Net Open Position maintained by Commercial Banks had increased sharply.

In these circumstances, there may have been valid reasons for Mr. Mahendran to have issued the instruction, on 03<sup>rd</sup> March 2016, to stop Reverse REPO Auctions and seek to reduce Liquidity.

However, the fact that there may have been valid reasons for the instruction given by Mr. Mahendran on 03<sup>rd</sup> March 2016, does not take away from the fact that, this instruction contributed towards creating circumstances in which Perpetual Treasuries Ltd was able to obtain Treasury Bonds at high Yield Rates, at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

It should also be mentioned here that, Mr. Rodrigo said that, in view of the high Interest Rates and the deficit in Liquidity prevailing in the Market on 01<sup>st</sup> April 2016, the Market Operations Committee decided to hold a Reverse REPO Auction on that day and inject Liquidity into the Market. Mr. Mahendran had permitted this Auction to be held.

We note that, this Auction was held after the aforesaid Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

For the aforesaid reasons, we determine that:

- (i) The instruction given by Mr. Mahendran on 03<sup>rd</sup> March 2016 to stop Reverse REO Auctions contributed towards creating circumstances in which Perpetual Treasuries Ltd was able to obtain Treasury Bonds at high Yield Rates, at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

**Section 19.5.2 - The Funds needed by the Government on 01<sup>st</sup> April 2016**

As set out in the Daily Cash Flow Statement for the month of April 2016 prepared by the Department of Treasury Operations and forwarded to the PDD, the PDD was required to raise a sum of Rs. 122.373 billion on 01<sup>st</sup> April 2016.

The Domestic Borrowing Programme for April 2016, prepared by Domestic Debt Management Committee states that, the PDD intended to raise these monies by holding the following three Treasury Bond Auctions, all having a Settlement Date of 01<sup>st</sup> April 2016:

1. An Auction on 24<sup>th</sup> March 2016 at which Treasury Bonds to the value of Rs. 20 billion will be offered;
2. An Auction on 29<sup>th</sup> March 2016 at which Treasury Bonds to the value of Rs. 40 billion will be offered;
3. An Auction on 30<sup>th</sup> March 2016 at which Treasury Bonds to the value of Rs. 62.370 billion will be offered.

It is established by the evidence before us, that, subsequently, the Department of Treasury Operations advised the PDD that, the total funds required on 01<sup>st</sup> April 2016 had reduced to Rs. 105 billion.

It has to be kept in mind that, even that reduced amount of Rs.105 billion constituted a very large quantum of funds that had to be raised by the PDD on 01<sup>st</sup> April 2016.

In this background, the PDD arranged the following Auctions to be held on 24<sup>th</sup> March 2016, 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016, all with a Settlement Date of 01<sup>st</sup> April 2016:

**TREASURY BOND AUCTIONS**  
**TO BE HELD ON 24<sup>TH</sup> MARCH 2016**

ISIN	TENOR	COUPON RATE	AMOUNT OFFERED
LKB00520E014	04 Years 01 Month	9.25%	5 billion
LKB00721J157	05 Years 06 Months	9.45%	5 billion
LKB00922J011	06 Years 06 Months	10.00%	5 billion
LKB01025C157	08 Years 11 Months	10.25%	5 billion
<b>TOTAL AMOUNT OFFERED</b>			<b>20 billion</b>

**TREASURY BOND AUCTIONS**  
**TO BE HELD ON 29<sup>TH</sup> MARCH 2016**

ISIN	TENOR	COUPON RATE	AMOUNT OFFERED
LKB00520E014	04 Years 01 Month	9.25%	10 billion
LKB01025C157	08 Years 11 Months	10.25%	10 billion
LKB01226F014	10 Years 02 Months	11.00%	10 billion
LKB01530E152	14 Years 01 Month	11.00%	10 billion
<b>TOTAL AMOUNT OFFERED</b>			<b>40 billion</b>



**TREASURY BOND AUCTIONS**  
**TO BE HELD ON 31<sup>ST</sup> MARCH 2016**

ISIN	TENOR	COUPON RATE	AMOUNT OFFERED
LKB01518B013	01 Year 10 Months	8.50%	5 billion
LKB00619G019	03 Years 03 Months	10.60%	5 billion
LKB00821H019	05 Years 04 Months	11.00%	5 billion
LKB01528I017	12 Years 05 Months	11.50%	10 billion
<b>TOTAL AMOUNT OFFERED</b>			<b>25 billion</b>

Mr. Sarathchandra, who was the Superintendent of the PDD in March 2016, stated to us that, the PDD had decided to raise any balance funds which may required on 01<sup>st</sup> April 2016, from the proceeds of two Auctions of Sri Lanka Development Bonds which had been held earlier in March 2016.

**Section 19.5.3 - Treasury Bond Auction held on 24<sup>th</sup> March 2016**

As set out in the related Bids Received Sheets, which were produced in evidence, the following Bids had been received for the four Treasury Bonds offered at the Auction held on 24<sup>th</sup> March 2016:

<b>ISIN</b>	<b>TENOR</b>	<b>AMOUNT OFFERED</b>	<b>VALUE OF THE BIDS RECEIVED</b>	<b>RANGE OF YIELD RATES IN THE FIRST 75% OF THE YIELD RATES OF THE BIDS RECEIVED (1)</b>
LKB00520E014	04 Years 01 Month	5.0 billion	13.628 billion	12.500 to 14.4000
LKB00721J157	05 Years 06 Months	5.0 billion	17.500 billion	12.6999 to 14.7501
LKB00922J011	06 Years 06 Months	5.0 billion	13.520 billion	12.8997 to 15.2001
LKB01025C157	08 Years 11 Months	5.0 billion	33.150 billion	12.9996 to 15.0003

We have stated only the Yield Rates of first 75% of the Yield Rates of the Bids received because the Yield Rates of the Bids at the higher end of the range tend to be more speculative and nature and may not reflect the perception in the Market of what the expected Yield Rates really are.

With regard to the Auction of Treasury Bonds bearing ISIN LKB00520E014, the PDD recommended that, Bids to the value of Rs. 2.578 billion be accepted, with a Weighted Average Yield Rate [Net of Tax] of 13.0203.

With regard to the Auction of Treasury Bonds bearing ISIN LKB00721J157, the PDD recommended that, Bids to the value of Rs. 4.140 billion be accepted, with a Weighted Average Yield Rate [Net of Tax] of 13.0869.

With regard to the Auction of Treasury Bonds bearing ISIN LKB00922J011, the PDD recommended that, Bids to the value of Rs. 1.805 billion be accepted with a Weighted Average Yield Rate [Net of Tax] of 13.1827.

With regard to the Auction of Treasury Bonds bearing ISIN LKB01025C157, the PDD recommended that, Bids to the value of Rs. 4.400 billion be accepted with a Weighted Average Yield Rate [Net of Tax] of 13.3371.

Thus, PDD recommended that Treasury Bonds to the aggregate value of Rs. 12.923 billion be accepted at this Auction, at which Treasury Bonds to the aggregate value of Rs. 20 billion had been offered.

The Tender Board considered the recommendation made by the PDD and decided to reject the acceptance of all these Bids for the following reasons, which are set out in the Minutes of the meeting of the Tender Board held on 24<sup>th</sup> March 2016:

***“4. The Tender Board made the following observations:***

- a) Today’s auction was to raise part of the funding requirement on 01.04.2016 amounting to Rs. 105.0 bn.*
- b) The bids at today’s auction for all maturities have begun in the range of 12.50% to 13.00% which are very high compared to the recent auctions. Therefore the amount that can be raised from the auction as recommended by the department is very limited to Rs. 10.3 bn in book value.*
- c) Therefore, one or more auctions has to be announced to raise the balance part of the funding requirements where such funds will have to be raised at further higher yield rates if any bids are accepted at today’s auction.*
- d) On the other hand, sufficient liquidity will be available from maturity proceeds and coupon payments in the market for investment in bonds. However, bids placed for this auction are limited, expecting further increase in yield rates at the upcoming auctions.*
- e) Accordingly, the Tender Board was of the view that raising funds from this auction is not advisable and consideration of raising total funding requirements from the next auction could be more prudent.”*

### **Decision**

*Accordingly, the Tender Board decided to reject the acceptance of all bids.”.*

This decision of the Tender Board was unanimously agreed to by all the members of the Tender Board who participated at that meeting.

We note that, Mr. Mahendran has approved the aforesaid decision of the Tender Board by signing the Minutes of the meeting of the Tender Board held on 24<sup>th</sup> March 2016 under the words “*Approval of the Governor*”. As stated earlier, Mr. Mahendran had proceeded on leave from 18<sup>th</sup> March 2015 and was not working at the CBSL on 29<sup>th</sup> March 2015. When Mr. Mahendran gave evidence he said that, the Minutes had been sent to him for approval on 24<sup>th</sup> March 2015.

We presume this was done due to the fact that, Mr. Samarasiri, who had been designated the Deputy Governor during Mr. Mahendran’s absence on leave and could act for the Governor, was also the Chairman of the Tender Board. Therefore, Mr. Samarasiri would not have been able to also approve the decision taken by the Tender Board and the Minutes had to be sent to Mr. Mahendran for his approval.

As we stated, earlier the evidence before us shows that, in fact, Bids had been placed at this Auction at high Yield Rates.

Further, as we have observed above, the PDD has regularly resorted to the strategy of rejecting Bids at an Auction, where it was felt that Primary Dealers were bidding at unacceptably high Yield Rates. This measure was taken to exert pressure on the Primary Dealers to bid at more acceptable levels at subsequent Auctions.

As stated, earlier, we are mindful that, since the officers of the CBSL are possessed of specialized knowledge and experience and have the authority and discretion to make decisions with regard to the acceptance of Bids at an Auction and we do not possess such knowledge or skills, we should refrain from venturing to make ‘technical’ judgments and “second guess” decisions taken by these officers unless they are manifestly perverse or are shown to have been made for improper reasons.

The evidence before us does not suggest that, the decision of the Tender Board to reject all Bids received at Treasury Bond Auction held on 24<sup>th</sup> March 2016 was perverse or that it was made for improper reasons. To the contrary, it appears to us that, the Tender Board has set out, in the Minutes, cogent reasons for its decision. In this connection, we also note that, Dr. W.A. Wijewardena too expressed a similar view when he stated, with regard to this Auction, “*So therefore I don’t find anything in*

*rejecting the respective bids because they are not actually in line with the prevailing market interest rates.”.*

In these circumstances, we see no reason to consider that, the Tender Board acted unreasonably or imprudently when it decided to reject all Bids received at the Treasury Bond Auction held on 24<sup>th</sup> March 2016.

**Section 19.5.4 - The Meeting at the Ministry of Finance on 28<sup>th</sup> March 2016**

The following senior officers of the People’s Bank, the Bank of Ceylon, and the National Savings Bank testified that the Ministry of Finance had requested them to attend a meeting held, on 28<sup>th</sup> March 2016, at the Ministry of Finance. They said that, this meeting had been convened by Hon. Ravi Karunanayake, MP, the then Minister of Finance.

People’s Bank

Mr. Hemasiri Fernando- Chairman.

Mr. Wasantha Kumar- General Manager.

Bank of Ceylon

Mr. Ronald Perera- Chairman.

National Savings Bank

Mr. Aswin de Silva- Chairman.

Mr. S.D.N. Perera- General Manager and Chief Executive Officer.

The evidence of these officers is to the effect that, they all attended this Meeting which was chaired by Mr. Ravi Karunanayake.

Several other officials of the Ministry of Finance and the Central Bank had been present. Mr. R. Paskaralingam has also been present. Mr. Paskaralingam is designated as an Advisor to the Ministry of National Policies and Economic Affairs.

Further, the Hon. Prime Minister in his evidence stated that Mr. Paskaralingam maintained an office at the Ministry of Finance and was in fact advising the Ministry of Finance.

The Hon. Prime Minister has stated, in his evidence that, he was unaware of this meeting and that he was unaware that, Mr. Paskaralingam had attended such a meeting.

We consider that, Mr. Wasantha Kumar, the General Manager of People's Bank, was a reliable witness with a clear recollection of the events of this meeting held on 28<sup>th</sup> March 2016.

We consider that, for the purposes of this Section of our Report, an analysis of Mr. Wasantha Kumar's evidence will be more than adequate for the Commission of Inquiry to assess the events which transpired at this meeting.

The evidence of the other witnesses who attended this meeting has been recounted earlier in Chapter 5.

Mr. Wasantha Kumar's Evidence-in-Chief was, *inter alia*, presented in the form of an Affidavit affirmed to by him 03<sup>rd</sup> October 2017 and marked "C284".

In his affidavit, Mr. Wasantha Kumar testified with regard to the events of the meeting held on 28<sup>th</sup> March 2016 at the Ministry of Finance, as follows:

- “7. *The meeting was chaired by the Hon. Minister of Finance. Mr.Paskaralingam, the Senior Advisor to the Honourable Prime Minister was present. Several other officials from the Treasury and the Central Bank were also present but I cannot recall their identity at this stage.*
8. *The Minister of Finance addressed the representatives of the State Banks, expressed concern about the high yields in the government securities market and spoke of the need to stabilize the rupee interest rate at a lower level.*
9. *The Hon. Minister requested the State Banks present to co-operate towards this endeavor by bidding at low yield rates at the auction to be held on 29<sup>th</sup> March 2016.*
10. *Thereupon, the volume of investment and the yield rates at which the bids were to be placed was discussed.*
11. *With regard to the volume of investment at the auction to be held on 29<sup>th</sup> March, 2016 the Hon. Minister of Finance, directed that the entirety of the proceeds of the bonds maturing on 01.04.2016, should be reinvested at the auction on 29.03.2016. In the case of People's Bank this amount was approximately Rs. 8 Billion, which fact was communicated to the Hon. Minister.*

12. *With regard to the rates at which the bids were to be placed at the auction to be held on 29<sup>th</sup> March 2016, the Hon. Minister prescribed the following range of rates at which the three state banks should place their bids in coordination with each other:*

<i>Series</i>	<i>Maturity</i>	<i>Yield net of tax</i>
<i>9.25% 2020A</i>	<i>1<sup>st</sup> May 2020</i>	<i>12.50%-13.00% p.a</i>
<i>10.25% 2025A</i>	<i>15<sup>th</sup> March 2025</i>	<i>12.75%- 13.20% p.a</i>
<i>11.00% 2026A</i>	<i>1<sup>st</sup> June 2026</i>	<i>12.80%-13.45% p.a.</i>
<i>11.00% 2030A</i>	<i>15<sup>th</sup> May 2030</i>	<i>12.90%- 13.60% p.a.</i>

13. *The rates so prescribed were lower than the prevailing market rates at the time.*
14. *As understood by the representatives of the People's Bank, the objective of this endeavor was, to keep the interest rates low in the national interest, by stabilize the government security yield rates at the rates prescribed by the Hon. Minister. A stable interest rate environment was also beneficial to the People's Bank.*
15. *However, in order to ensure that the objective of stabilizing interest rates was achieved by the State Banks bidding low, it was vital that bids at yield rates higher than the rates prescribed by the Hon. Minister would not be accepted at the auction.*
16. *Moreover, by bidding at low rates the People's Bank and other State Banks risked incurring an immediate mark to market loss if bids at higher yield rates were accepted from other primary dealers. There was also the danger of a long term loss in the portfolio.*
17. *When concern about the possibility of the above losses were raised the Hon. Minister made us understand that bids at higher rates would not be accepted.*
18. *In view of this understanding, I saw no reason to object to the request that was made to bid low.*
19. *Consequently, I instructed Ms. Roshini Wijerathna, the Deputy Head of the People's Bank Primary Dealer Unit, who was handling the auction on 29<sup>th</sup> March 2016, to bid at the auction within the rates prescribed by the Hon. Minister in consultation with other State Banks.*



20. *As such, Ms. Roshini Wijeratne had called the two other State Banks in order to coordinate the rates.*
21. *Additionally, as instructed by me she also called the Superintendent of Public Debt, Mr. Sarathchandra.*  
**(A CD containing the extracts from the dealer room voice recordings of 29<sup>th</sup> March 2016, is annexed hereto marked A)**
22. *Ms. Wijeratne had expressed the Bank's concerns to the SPD about the State Banks being directed to bid lower than the market rate at the auction. As the SPD appears to be aware of this direction, Ms. Wijeratne seeks his assurance that no bids at higher yield rates will be accepted by the Public Debt Department. He informs her that the final decision will be taken by the Tender Board but undertakes to inform the tender committee of the concerns raised.*
23. *Being so re-assured that bidding low would be in the national interest and would not be detrimental to the People's Bank, the People's Bank completed the placing of its own bids at the rates prescribed.*
24. *The People's Bank Client's Bids could not be submitted at the rates prescribed by the Hon. Minister as the rates were provided to the People's Bank directly by the client.*  
**(The bid sheet for the 29<sup>th</sup> March 2016 auction is annexed hereto marked B)**
25. *When the outcome of the auction held on the 29<sup>th</sup> March 2016 had been accepted at significantly higher yield rates. For instance, yields as high as 14.80% for the '2030 A' bond series had been accepted by the Central Bank on behalf of the Government of Sri Lanka.*
26. *As the yield rates were significantly higher, these bidders had bought Treasury Bonds from the Government of Sri Lanka at prices much lower than the price at which the People's Bank had bid upon the Minister's instruction.*
27. *Had the Hon. Minister not prescribed the rates at which the People's Bank should bid, the People's Bank would have bid at rates higher than the rates at which their bids were in fact placed, taking an informed view of the market."*

In reply to questions asked from him by learned Senior State Counsel, Mr. Wasantha Kumar said that, Peoples' Bank had Treasury Bonds to an aggregate value of Rs. 8 billion maturing on 01<sup>st</sup> April 2016 and had agreed to place Bids for a value of Rs. 8

billion at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016; National Savings Bank had Treasury Bonds to an aggregate value of Rs. 12 billion maturing on 01<sup>st</sup> April 2016 and, accordingly, National Saving Bank had agreed to place Bids for a value of Rs. 12 billion at the same Treasury Bond Auction; and Bank of Ceylon had Treasury Bonds to an aggregate value of Rs. 4 or 5 billion maturing on 01<sup>st</sup> April 2016 and, accordingly, Bank of Ceylon had agreed to place Bids for a value of Rs. 4 or 5 billion at this Treasury Bond Auction.

Learned Senior State Counsel then pointed out to Mr. Wasantha Kumar that, the aforesaid Bids which Peoples' Bank, National Savings Bank and Bank of Ceylon had agreed to place at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016, aggregated to only Rs. 24 billion, but, Treasury Bonds to an aggregate value Rs. 40 billion had been offered for sale at this Auction.

Thereupon, Mr. Wasantha Kumar said that, *"There were twenty four billion. Then the shortfall was about sixteen billion. They said Sri Lanka Insurance, EPF, ETF and other captive funds will take care of that."* Mr. Wasantha Kumar went on to state that, his understanding was that, Sri Lanka Insurance Corporation, EPF, the Employees' Trust Fund and other "Captive Sources" will also place their Bids within the same range of Yield Rates indicated to the three State Banks.

There is no evidence before us which suggests that, any officer of the CBSL was present at this meeting held on 28<sup>th</sup> March 2016, at the Ministry of Finance.

There is also no evidence before us which suggests that, Hon. Ravi Karunanayake, MP, the then Minister of Finance or Dr. Samaratunga, Secretary to the Ministry of Finance or any other officer of the Ministry of Finance advised or communicated to the PDD or the CBSL the fact that, the three State Banks had been instructed to bid at specified Yield Rates at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016 and been given an assurance that, Bids at higher Yield Rates would not be accepted at this Auction.

In this connection, we would think that, if this information had been "officially" communicated to the PDD or CBSL, at least one or more of the many officers of the PDD and the CBSL who gave evidence before us would have testified to that fact. We would also think that, If Dr. Samaratunga had advised the Monetary Board that these instructions had been given, that fact would have been recorded in the Minutes of the meetings of the Monetary Board. We also note that, although Hon. Ravi Karunanayake, MP was advised of the day on which the evidence of several witnesses from the three State Banks would be led, neither he nor his Counsel appeared before us on that day.

However, at this stage, it is relevant to consider the telephone conversation that transpired when Ms. Roshini Wijeratne of the People's Bank, acting upon the instructions of Mr. Wasantha Kumar, telephoned between Mr. Sarathchandra, Superintendent of Public Debt during the morning of 29<sup>th</sup> March 2016. A Compact Disc with an Audio Recording of this conversation was marked "C284A":

“Mr. S: Hello

Ms. RW: Mr. Sarathchandra

Mr. S: ඔව්

Ms. RW: මම රෝෂිනී කලා කරන්නේ Peoples Bank treasury එකෙන්

Mr. S: ඔව්

Ms. RW: මේ අර මට ජීම් කිව්වා සර්ට කතා කරලා කියන්න කියලා දැන් අර අපිට මේව කරලා බිඩ් දාන්න කියලා කිව්වලු නෙ මේ පාර

Mr. S: ඔව්, ඔව්

Ms. RW: ඉතිං දැන් අපි ඒ හින්දා දැන් 2010 එහෙම..... මාකට්.... 121/2, දැන් 25..... කරගෙන යන්නේ 13.20 එහෙම තමයි යන්නේ. මේ 26 යන්නේ 13.45 උපරිමය. තර්ට් එක 13.60... එකම දේ Mr. සරත්චන්ද්‍ර, GM කියන්න කිව්වා පොඩ්ඩක් දැන් ඊට වඩා වැඩියෙන් නම් මාකට් එකෙන් ගන්න එපා කියලා අපිට ලොකු ප්‍රශ්නයක් වෙනවානේ

Mr. S: හා හා

Ms. RW: හොඳද ඒක පොඩ්ඩක් inform කරන්න කිව්වා අනිත් එක දැන් අපිට statistic ටික දාගන්න පුලුවන් වෙයිද දන්නේ නැහැ සර්ට කියන්න කිව්වා system එක වහන්නේ නැතුව පොඩ්ඩක් තියන්න කියලා. තියන්න පුලුවන් වෙයිද?

Mr. S: මම එකොළහට වැහෙනවනෙ

Ms. RW: ඔව් ඒක තමයි දැන් මේ දානවනෙ. ලිස්ට් එක... අරගොල්ලොත් එක්ක කලා කරලා දාන්න කිව්වනේ

Mr. S: ..... දැන් ඕක....Peoples Bank එකෙන්

Ms. RW: ..... දැන් දානවා දාගෙන යනවා... මොකද අර ගොඩාක් තිබුණා දැන් තමයි මෙච්චර වෙලා **Governor** එක්ක කලා කරලා අපේ **GM**ගෙන් අහන්නේ නැතුව කරන්නන් බැනේ එහෙම කරලා මේව කළේ. **OK**

Mr. S: *Then do it quickly.*

Ms. RW: හරි හරි ඒක කරන්නම් අනේ අරක වැඩියෙන් නම් ගන්න එපා හොඳේ

Mr. S: මොනවහරි **decision** ගනිද්දි... දැන් මෙහෙමයි කමිටි එකතෙ ඩිසයිඩ් කරන්නේ එහෙම මොනව හරි

Ms. RW: නෑ නෑ මෙහෙමයි අපිට දැන් අපිට දාන්න කිව්වනම් අපි මාකට එකේ තියෙන රේට් එක බලල නේ දාන්නේ. දැන් මේක අඩුවෙන් දාන්න කියලා අර ඔක්කෝමලා එක රේට් එකක් දාන්න කියලා කිව්වනේ... දැන් අපි මීට උඩින් තමයි යන්න හිටියෙ ඇත්තම

Mr. S: හා හා

Ms. RW: ඉතිං එතකොට දැන් අපිට.... දැන් මේ මේ...

Mr. S: මං කියන්නම් මට කියන්න... රිපෝට් එක මට දෙනහැකි

Ms. R: ඔව්....

Mr. S: දැන් ඕගොල්ලො ගන්නොත්

Ms. RW: ඔව් ගන්නොත් අපිට ලොකු ප්‍රශ්නයක් වෙනවා... දැනටමත් අපිට... මාර්තු මාසේ... ඊට පස්සෙ ලොකු ප්‍රශ්නයක් වෙනවානේ

Mr. S: හරි හරි.....

Ms. RW: *Thank you Mr. සරත්චන්ද්‍ර God bless you."*

During this telephone conversation, Ms. Roshini Wijeratne of the Peoples' Bank had informed Mr. Sarathchandra that, the People's Bank had been instructed to place Bids, at specified Rates at the Auction being then held and has asked Mr. Sarathchandra to given assurance that, the CBSL will not accept Bids at higher Rates. Mr. Sarathchandra has said that, the decision with regard to the Bids that are to be accepted will be taken by the Tender Board. However, he has undertaken to inform the Tender Board of the information that, Ms. Wijeratne gave him.

It should be mentioned that, Ms. Wijeratne spoke very fast and that, at times, it was difficult to understand what she was saying.

When learned Senior State Counsel asked Mr. Wasantha Kumar whether there have been previous instances where the Ministry of Finance had instructed State Banks on the Yield Rates at which they should place Bids at Auctions of Treasury Bonds, Mr. Wasantha Kumar stated that, *“The Treasury has given in the past. They said that the Secretary to the Treasury summons and tells us to bring the rates down and put a lower rate ....”*. Mr. Wasantha Kumar went on to say that he did not know of a previous instance where a Minister of Finance had issued such an instruction.

In reply to questions asked by learned Senior State Counsel, Mr. Wasantha Kumar said that, if the Peoples’ Bank had not received the aforesaid instructions with regard to the range within which Bids were to be placed at the Treasury Bond Auction held on 29<sup>th</sup> March 2016, the Peoples’ Bank would have placed its Bids at that Auction, based on the prevailing Yield Rates in the Market.

Mr. Wasantha Kumar’s evidence makes it clear that, the Peoples’ Bank did not suffer an actual or real loss as a result of the bidding at low Yield Rates and obtaining Treasury Bonds at those low Yield Rates at the Treasury Bond Auction held on 29<sup>th</sup> March 2016 when other Primary Dealers had obtained Treasury Bonds at higher Yield Rates at the same Auction. Mr. Wasantha Kumar explained that, instead, the Peoples’ Bank missed an opportunity to obtain Treasury Bonds at higher Yield Rates at this Auction and, thereby, there had been, what Mr. Wasantha Kumar termed, an *“opportunity loss”* or a *“notional loss”*.

In reply to the Commission of Inquiry, Mr. Wasantha Kumar stated that, the Peoples’ Bank had agreed to place Bids at low Yield Rates at the Treasury Bond Auction held on 29<sup>th</sup> March 2016 because it was desirable, in the interests of the economy and the People’s Bank, that, Rates should be brought to lower levels.

In reply to the Commission of Inquiry, Mr. Wasantha Kumar clearly stated in his evidence that, the representatives of the State Banks had not been told, by Mr. Karunanayake or any other official at this meeting that, the Government required to borrow a sum of Rs.105 Billion on 01<sup>st</sup> April 2016. He added that if he had known that there was such a large Government fund requirement on 01<sup>st</sup> April 2016, the People’s Bank would have taken into consideration, the fact that the CBSL had to raise such a large amount, when deciding whether to bid at the low rates, which the then Minister of Finance had instructed them to bid at.

A question arises as to whether Deputy Governor Samarasiri was present at this meeting held on 28<sup>th</sup> March 2016, at the Ministry of Finance.

We consider Mr. Ronald Perera, PC and Mr. Wasantha Kumar, to be reliable witnesses.

Despite knowing Mr. Samarasiri by sight, Mr. Ronald Perera and Mr. Wasantha Kumar did not state that Mr. Samarasiri was present at the meeting.

Thus, Mr. Harsha Fernando, Attorney-at-Law appearing for Mr. Samarasiri asked Mr. Ronald Perera, PC, *“Mr. Perera, I represent Deputy Governor Samarasiri. Mr. Perera I presume you know the Governor and the 03 Deputy Governors of the Central Bank well ?”*, Mr. Perera replied, *“Yes”*. When Mr. Harsha Fernando, asked Mr. Ronald Perera, PC, *“If any of the Deputy Governors was there, you would have recognized them ?”*, Mr. Perera replied, *“Yes”*.

When the Commission of Inquiry asked Mr. Wasantha Kumar whether he recollected which officials of the CBSL were present at this meeting, Mr. Wasantha Kumar said he did not. When the Commission of Inquiry asked Mr. Wasantha Kumar whether he would recollect if the Governor of the CBSL or a Deputy Governor had been at this meeting, Mr. Wasantha Kumar said he would have remembered if the Governor or a Deputy Governor of the CBSL had been at this meeting. When the Commission of Inquiry asked Mr. Wasantha Kumar, *“So there was nobody whose name you can recollect ?”*, he replied *“Recollect, yes.”*

Although, in reply to learned Senior State Counsel, Mr. Hemasiri Fernando initially said that he remembered that, Mr. Samarasiri was present at the meeting held on 28<sup>th</sup> March 2016, when Mr. Hemasiri Fernando was cross examined by Mr. Harsha Fernando, Attorney-at-Law, it was apparent that, Mr. Hemasiri Fernando did not have a specific recollection of whether Mr. Samarasiri had been present at this particular meeting held on 28<sup>th</sup> March 2016. In this connection, Mr. Hemasiri Fernando said, *“Your Lordship, Mr. Samarasiri and several senior Central Bank Officials have been attending meetings chaired by the Minister of Finance during the last so many years. But I can’t recollect exactly which meeting they were present.”*. Later on, after further questioning by Mr. Harsha Fernando, Attorney-at-Law, Mr. Hemasiri Fernando said that *“..... if it is going to confuse the proceeding I would respectfully withdraw my mentioning about Mr. Samarasiri.”*

Although, in reply to learned Senior State Counsel, Mr. Aswin de Silva initially stated that, he saw Mr. Samarasiri at the meeting held on 28<sup>th</sup> March 016, when Mr. Aswin de

Silva was cross examined by Mr. Harsha Fernando, Attorney-at-Law, Mr De Silva admitted that, he was a “*little bit hazy*” on this matter.

The only witness who stated, in affirmative terms, that, Mr. Samarasiri was present at this meeting held on 28<sup>th</sup> March 2016, was Mr. S.D.N. Perera who was called by the officers of the Attorney General’s Department assisting the Commission of Inquiry towards the tail end of the proceedings.

Mr. Samarasiri has affirmed an Affidavit dated 12<sup>th</sup> October 2017, marked, “**S33**”, tendered to us on 26<sup>th</sup> October 2017, with our permission, in which he affirms to the following:

- “2. *I was informed by the Counsel representing me as a concerned party, that evidence had been led before the Hon. Commissioners of two meetings allegedly called for and chaired by the then Minister of Finance Hon. Ravi Karunanayake on the 28<sup>th</sup> and 30<sup>th</sup> of March 2016 with the State Banks at the premises of the Ministry of Finance.*
3. *I specifically state that I did not participate in any of the aforesaid meetings.*
4. *I categorically deny any and all testimony of my presence at the alleged meetings made by any person or persons summoned before the Hon. Commission.”.*

Mr. Samarasiri gave evidence before this Commission on three days and was subjected to intense cross examination by the officers of the Hon. Attorney General’s Department who are assisting this Commission of Inquiry.

The question of whether he was present at this meeting held on 28<sup>th</sup> March 2016 as not raised, when he gave evidence. This may have been because of the fact that this meeting had been held was not known at the time.

We consider that, we can place reliance on the evidence of Mr. Ronald Perera, PC and Mr. Wasantha Kumar. We are of the view that, if Mr. Samarasiri was, in fact, present at this meeting, both or one of these witnesses would have mentioned this fact to the Commission.

We consider that, we cannot rely on the evidence given by Mr. Hemasiri Fernando and Mr. Aswin De Silva that Mr. Samarasiri was present at this meeting, because those witnesses admitted, in Cross Examination, that their recollection on this issue was not clear.



Although, Mr. S.D.N. Perera, who was summoned to give evidence, at the tail end of the proceedings, said that, Mr. Samarasiri was present at this meeting, we consider that we can place more reliance on the evidence of Mr. Ronald Perera, PC and Mr. Wasantha Kumar.

Therefore, in these circumstances, we cannot conclude that Mr. Samarasiri was present at the Meeting held on 28<sup>th</sup> March 2016 at the Ministry of Finance.

Next, a question also arises as to whether any other officers of the CBSL were present at this meeting held on 28<sup>th</sup> March 2016, at the Ministry of Finance.

In his affidavit, Mr. Wasantha Kumar has stated that, *“Several other officials from the Treasury and the Central Bank were also present but I cannot recall their identity as this stage.”* Thus, in effect, Mr. Wasantha Kumar has only said that, he thought that some of the persons attending the meeting were officers of the Treasury and the CBSL. He has not identified any officers of the CBSL who were present at this meeting.

Mr. Ronald Perera, PC only stated that, the officials present at that meeting were officials of the Treasury. Mr. Hemasiri Fernando, Mr. Aswin De Silva and Mr. S.D.N.Perera have not stated, in their Affidavits, that officers of the CBSL were at this meeting.

In any event, not one of the witnesses has identified an officer of the CBSL who was present at that meeting [other than in the case of the evidence relating to Deputy Governor Samarasiri which we have considered earlier].

We note that, the officers of the Hon. Attorney General’s Department who are assisting this Commission of Inquiry have not suggested to any of the officers of the CBSL who gave evidence before us that, any one of them or any of their colleagues attended this meeting held at the Ministry of Finance on 28<sup>th</sup> March 2016.

In these circumstances, we cannot conclude that, any officer of the CBSL was present at this meeting.

Upon the aforesaid evidence and in the aforesaid circumstances, we are of the view that:

- (i) Although it appears to have been unprecedented for a Minister of Finance to summon a meeting at which he instructs the State Banks to bid at specified Yield Rates at a Treasury Bond Auction, there is reliable

testimony that, there have been instances where such instructions have been given by the Secretary to the Ministry of Finance.

In any event, in view of the undesirably high Yield Rates which then prevailed, it was reasonable and justifiable for the Ministry of Finance to wish to bring these Yield Rates down at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016.

In this background and in view of the fact that, successive Governments have been known to use the state owned Peoples' Bank, National Savings Bank and Bank of Ceylon to implement some policy measures and it is not *per se* irregular for a Government to do so, we cannot find fault with Hon. Ravi Karunanayake, MP, the then Minister of Finance or the Ministry of Finance, for having convened the meeting on 28<sup>th</sup> March 2016 and given instructions to the three State Banks to bid within a specified range of Yield Rates at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016;

- (ii) At this meeting, the then Minister of Finance has given an assurance to the three State Banks that only Bids within the specified range of Yield Rates will be accepted at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016;
- (iii) The evidence before us does not prove that, Mr. Samarasiri or any other officer of the CBSL was present at the meeting held on 28<sup>th</sup> March 2016 at the Ministry of Finance;
- (iv) There is no evidence before us which suggests that, that, Hon. Ravi Karunanayake, MP, the then Minister of Finance, Dr. Samaratunga, Secretary to the Ministry of Finance or any other officer of the Ministry Finance advised the CBSL that the aforesaid instruction and assurance had been given to the three State Bank or took any steps to ensure that, the CBSL would honour that assurance;
- (v) Since Dr. Samaratunga, Secretary to the Ministry of Finance, who was present at this meeting, is also a member of the Monetary Board, he was personally obliged to convey to the CBSL that, the three State Banks had been instructed to place Bids within a specified range of Yield Rates at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016 and that, the three State Banks had been given an assurance that, Bids at higher Yield

Rates would not be accepted at this Auction. There is no evidence that, Dr. Samaratunga did so;

- (vi) In any event, following his telephone conversation with Ms. Roshini Wijeratne of the Peoples' Bank, Mr. Sarathchandra, Superintendent of Public Debt had been told that, the Peoples' Bank had been instructed to place Bids within a specified range of Yield Rates at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016. Mr. Sarathchandra has also undertaken to advise the Tender Board of this fact.

However, it has to be kept in mind that, the Audio Recording establishes that, Ms. Roshini Wijeratne spoke very fast and somewhat unclearly. Therefore, it would be unfair to impute on Mr. Sarathchandra, by virtue of this telephone conversation only, a comprehensive knowledge of all the instructions and assurances given to the three State Banks at the meeting held at the Ministry of Finance on 28<sup>th</sup> March 2016;

- (vii) The acceptance of Bids at the aforesaid Auction at higher Yield Rates than the Yield Rates at which the three State Banks had placed their Bids, did not result in these three State Banks incurring an actual or real loss but did, cause an "*opportunity loss*" or a "*notional loss*" to the three State Banks.

**Section 19.5.5 - The telephone calls on 29<sup>th</sup> March 2016 between Arjun Aloysius and Kasun Palisena**

We have set out earlier, the telephone conversations that took place between Mr. Arjun Aloysius and Mr. Kasun Palisena, the CEO of Perpetual Treasuries Ltd on 29<sup>th</sup> March 2016. Mr. Aloysius was in Singapore and Mr. Palisena was at the office of Perpetual Treasuries Ltd.

We will reproduce these two conversations here, to assist easy reference.

The first conversation commenced at 9.18am.

**“Operator Recording: Mobitel user you are calling is currently roaming internationally. Please continue to hold if you wish to be connected.**

KP- Chollunga

AA- Kasun

KP- Hi Arjun

AA- Hi. So, yesterday there was a meeting that was called.

KP- OK.

AA- With all the State Banks, an instruction had gone that the state banks bid low.

KP- OK.

AA- OK.? So I found from our friend that NSB and other friend at BOC. And they haven't given a specification of what rate to them, but they want to bid low.

KP- OK.

AA- Then there were other things. I'll give you a quick background. The other things that were mentioned was that basically proposition to take the S.R.R. out. OK ? And certain other propositions basically to drastically bring the rates down after the hundred and twenty six billion is raised. The actual number is one twenty two, not one twenty six. Right ?

KP- OK.

AA- So, that's the status. Now, there are few scenarios that's going to play out. Scenario one, the entire market is expecting a rate hike today. That is not going to take place. OK ?

KP- Yeah.

AA- Right. So, our friends from the department are telling us, if we can, why don't you'll bid more today, as opposed to Thursday, because, Thursday interest is going to be huge.

KP- So today, is, whatever we are doing we should do today, Arjun. Not, shouldn't wait for Thursday.

AA- You're also supporting the same view as everybody else, right?

KP- Yes. Yes.

AA- *Excellent. Excellent. So, I am also on the same page with you, because there is a two tone disadvantage after we bid today. One is the entire market is going to know that we're heavy in the market again. And the second is the rate cut euphoria that they were going ahead that that rate cut is not going to be there. Right ?*

KP- *Yeah.*

AA- *So, basically we are going to have severe competition on Thursday. Severe competition. Not small competition, severe competition. Right. I have a, magical sixty Billion in my mind which I want to do, because this is a once in a life time opportunity with regards to rates and you agreed with the same yesterday as well. OK. So, I have a sixty billion that I have and I am very confident that the Government will do everything in their power to drastically bring the rates down, because, there is a lack of requirement as well.*

KP- *OK.*

AA- *Only disadvantage that we face that "Templeton" politically selling. I am a little concerned about Templeton selling. That is one of the concerns that I have, but that also there is a plan to mop them up.*

KP- *OK. OK.*

AA- *OK. There is a plan to mop them up and I'm game on. OK ?*

KP- *Yeah. Yeah.*

AA- *Now, today, we are going to have relatively very much lesser competition.*

KP- *Yeah.*

AA- *So our friend, our, our, the friend that we have are telling us bill (bid) forty today and twenty on Thursday, and worst case, even if we don't get ten on Thursday, you can mop ten in the secondary market, which is exactly what your strategy is as well.*

KP- *Yes.*

AA- *You told me the same thing, that you want to buy something in the secondary market. However, the secondary market you're not going to get a great rate that you're getting in the primaries as secondaries because you're in a big drop.*

KP- *Yeah.*

AA- *OK. I am talking about a fifty to a hundred big drop, once we get at the rate we're trying to bid at today. OK ?*

KP- *OK.*

AA- *Right. Now the game plan is, now you can interrupt any time you want Kasun. The game plan is there is a twenty five on offer today. There is a twenty six y on offer today. There is a thirty on offer today.*

KP- *Yeah.*

AA- *And there is a low four year. We are not interested in that four year.*

KP- *OK.*

AA- *We are only interested in twenty five, twenty six, thirty.*

KP- *OK.*

AA- *OK ? We have three scenarios here. One, two, three. First scenario we bill (bid) fifteen on the thirty. Fifteen billion. At the best rate, we've already got a clearance on the cut off of that.*

KP- *OK.*

AA- *We build (bid), uh, seven billion on twenty six or eight billion on twenty six. Whichever you like.*

KP- *OK.*

AA- *I'll leave that to you. And so if we're building (bidding) seven on twenty six then we build (bid) eight on twenty five or if we build eight on twenty six we bid seven on twenty five. Right ?*

KP- *OK.*

AA- *That's option number one you come up with a magical thirty.*

KP- *OK.*

AA- *Then, I have one, Option B is we build (bid) seventeen on the thirty, seventeen billion on the thirty.*

KP- *OK.*

AA- *Nine billion on the twenty six.*

KP- *OK.*

AA- *And ten billion on the twenty five. Or if you want to do it the other way around, if you are doing seven and eight, then two billion, two billion more, so it's a total of six billion more.*

KP- *Seventeen and six. OK.*

AA- *It's a total of six billion more than the original Option A of thirty which comes to thirty six billion.*

KP- *Seventeen, nine and eight?*

AA- *Seventeen, nine and ten.*

KP- *Ten. OK.*

AA- *OK. Option Three. Option three is what they are asking as to build (bid) is forty billion. The other four billion I leave it to your imagination to do that if you want. Your call.*

KP- *OK.*

AA- *I'll leave it to you'll. Then do you want to build (bid) thirty, thirty six or forty ? What do you want to do ? I will leave it to you? I'll come back to the rates.*

KP- *Today we shouldn't, leave any other day. [inaudible] Whatever we are doing we should do it today. We shouldn't wait for tomorrow.*

AA- *So you want to go for forty today ?*



KP- *Yeah, why if we are going to buy forty, then we should do that today not tomorrow. Or tomorrow or day after.*

AA- *Right. OK. We'll go for the forty today. If that's what you will feel, we will go for the forty today. Then other twenty, only thing that is going take place is the other tenors that are going to come out on Thursday is most probably a seven, a twelve and a twenty year. But we don't know whether the twenty year will come out or not. If a twenty year comes out I definitely want to take ten billion on the twenty year.*

KP- *OK.*

AA- *Even if we have to bid low, I'll take that ten billion on the twenty year. OK.?*

AA- *Right. The rate. The all important rate. Shall we start with the fifteens ?*

KP- *OK.*

AA- *I'll give you the exact rate. My, I'll. They're bringing the rate down. I wrote it and kept it at home. I'll tell it to you in a few minutes. But, on average, but the rate is that 14.80 or 14.90 if you put a magical ten billion one shot.*

KP- *14.90 ?*

AA - *From Pan Asia. 14.90 or 14.80, I leave that to your imagination. OK ?*

KP- *OK.*

AA- *Right. Pan Asia one shot. I don't know whether Pan Asia will give it. If Pan Asia doesn't give it to us as one shot, then you put five billion which they've already agreed and they've given us and the other five billion you do through Perpetual, from fourteen seventy seven levels upwards. Mix and Match. You do a mix and match. Fourteen seventy seven or fourteen seventy eight levels or even, yeah, fourteen seventy nine levels upwards. OK ?*

KP- *OK.*

AA- *That is five and five. Then the other five billion, the other five billion, I will give you the rate at what to bid at. But this ten you take it as a given. This is what how you have to bid the fifteen year this ten.*

KP- OK.

AA- *Five billion fourteen ninety. and five billion at five billion Perpetual if they don't, if Pan Asia allows us to do one shot ten then you do one shot ten.*

KP- OK.

AA- *But your average needs to be a superstar average. I wanted a fifteen average. You're not going to achieve a fifteen average but at least the entire portfolio average this time should be at least fourteen sixty. That should be our plan.*

KP- OK.

AA- *Right. One disadvantage that we are facing, is that the private sector is going to be allowed to bid between 13 half and 14 half.”.*

It is apparent from this conversation that, by 9.18am (Sri Lanka time) on 29<sup>th</sup> March 2016, Mr. Aloysius had known of the meeting held at the Ministry of Finance in the afternoon the previous day.

Mr. Aloysius says he heard of this meeting from his “*friends*” at the National Savings Bank and the Bank of Ceylon, who had told him that, the State Banks had been asked to place Bids at “*low*” Rates at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016 but that the Yield Rates at which the Bids were to be placed, had not been specified.

Thus, Mr. Aloysius had accurate information of the instruction given to the State Banks to bid at low Yield Rates. However, he does not appear to have known that the Yield Rates at which the Bids were to be placed, had been specified.

Mr. Aloysius then goes on to state that, there had been other measures discussed at the meeting, such as an intention to reduce the Statutory Reserve Ratio [SRR] specified by the CBSL and a proposal to bring down Rates after 01<sup>st</sup> April 2016, once the funds required on 1<sup>st</sup> April 2016 had been raised.

It is to be noted, that none of the witnesses who attended that meeting on the 28<sup>th</sup> March 2016 and testified before us, mentioned that any such measures were discussed at this meeting.

In any event there has been no evidence placed before us of any intention or action on the part of the CBSL to remove or reduce the Statutory Reserve Ratio within a short period of time, after March 2016.

However, we note that on 11<sup>th</sup> April 2016 the Monetary Board, which was then chaired by Deputy Governor Samarasiri [since Mr. Mahendran was on leave], decided to bring down, by 50 basis points, the Interest Rates applied to the overnight Standing Deposit Facility and overnight Standing Lending Facility. This resulted in the subsequent drop in Interest Rates prevailing in the market.

Mr. Aloysius says that *“Now, there are few scenarios that’s going to play out. Scenario one, the entire market is expecting a rate hike today. That is not going to take place. OK ?* in this connection, there is no evidence before us concerning the basis on which Mr. Aloysius makes this statement. In fact, as mentioned earlier, the Interest Rates were lowered on 11<sup>th</sup> April 2016.

Mr. Aloysius then makes an interesting comment, *“So, our friends from the department are telling us, if we can, why don’t you’ll bid more today, as opposed to Thursday, because, Thursday interest is going to be huge.”*.

The *“friends from the department”* referred to by Mr. Aloysius can only mean the staff of the PDD.

Thus, these statements made by Mr. Aloysius establish that, one or members of the staff of the PDD were advising him on how Perpetual Treasuries Ltd should place Bids at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

We also note that, on Tuesday, 29<sup>th</sup> March 2016, Treasury Bonds to the aggregate value of Rs. 40 billion were offered and Bids to the value of Rs. 142.42 billion were received. This meant that the Auction was oversubscribed 3.6 times.

On Thursday, 31<sup>st</sup> March 2016 Treasury Bonds to the value of Rs. 25 billion was offered and Bids to the value of Rs. 113.1 billion were received, which meant that this Auction was oversubscribed 4.5 times.

To that extent, the advice given to Mr. Aloysius by his *“friends”* in the PDD, was proved right.

Mr. Aloysius then goes on to say that, *“So our friend, our, our, the friend that we have are telling us bill (bid) forty today and twenty on Thursday, and worst case, even if we*

*don't get ten on Thursday, you can mop ten in the secondary market, which is exactly what your strategy is as well."*

We have no reliable evidence placed before us, to suggest the identity of the "friend" Mr. Aloysius is referring to here. It would appear to us that, it is a person in the PDD or the CBSL. Therefore, in the absence of the identity of this person being revealed by Mr. Aloysius in the telephone conversation, we cannot arrive at a conclusion as to who that person might have been.

Mr Aloysius then says *"OK ? We have three scenarios here. One, two, three. First scenario we bill (bid) fifteen on the thirty. Fifteen billion. At the best rate, we've already got a clearance on the cut off of that."*

The statement made by Mr. Aloysius that, *"At the best rate, we've already got a clearance on the cut off of that"*, indicates that, Mr. Aloysius had been informed of the "Cut Off Rate" that would be applied when Bids on the Treasury Bond bearing ISIN LKB01530E152 [which matured in 2030] were accepted.

That information could only have been given by an officer of the PDD who played a key role in preparing the recommendations submitted by the PDD to the Tender Board or a key decision maker in the Tender Board or the Governor of the CBSL, who are the personnel who play a part in deciding this "Cut Off Rate".

However, here again, we have no reliable evidence placed before us, to suggest the identity of that person or those persons.

During the course of this conversation, Mr. Aloysius refers to the Tenors of the Treasury Bonds to be offered at the Auction on 31<sup>st</sup> March 2016- *"Then other twenty, only thing that is going take place is the other tenors that are going to come out on Thursday is most probably a seven, a twelve and a twenty year. But we don't know whether the twenty year will come out or not. If a twenty year comes out I definitely want to take ten billion on the twenty year."*

Here, Mr. Aloysius is claiming to have information concerning the Tenors of the Treasury Bonds to be offered at the Auction to be held on 31<sup>st</sup> March 2016, prior to the publication of the Notice making the formal announcement concerning the Auction, later that day.

However, we note that, contrary to the expectation which Mr. Aloysius had, Treasury Bonds with Tenors of 7 or 20 years were not offered at this Auction. But, as Mr. Aloysius

predicted, a Treasury Bond with a Tenor of 12 years and 05 months was offered at this Auction.

In these circumstances, we cannot conclude that Mr. Aloysius had any “*inside information*” regarding the Treasury Bonds offered at the Auction on 31<sup>st</sup> March 2016, and we assume that, this was an instance in which Mr. Aloysius was speculating on the Treasury Bonds which were likely to be offered at this Auction.

Mr. Aloysius later says that he will give Mr. Palisena the exact Rates to place Bids at the Auction and states, “*I’ll give you the exact rate. My, I’ll. They’re bringing the rate down. I wrote it and kept it at home. I’ll tell it to you in a few minutes. But, on average, but the rate is that 14.80 or 14.90 if you put a magical ten billion one shot.*”.

Mr. Aloysius also says, “*From Pan Asia. 14.90 or 14.80, I leave that to your imagination. OK ?*” and “*Right. Pan Asia one shot. I don’t know whether Pan Asia will give it. If Pan Asia doesn’t give it to us as one shot, then you put five billion which they’ve already agreed and they’ve given us ....*” and, again, “*Right. Pan Asia one shot.*”

These statements establish that, Perpetual Treasuries Ltd intended to place Bids at this Auction through Pan Asia Banking Corporation PLC.

The second conversation, which is set out below, commenced at 9.34am, on the same day:

***“The subscriber you are calling is currently roaming in internationally. Please continue to hold if you wish to be connected.***

AA- Kasun.

KP- Yes, Arjun.

AA- Hi. So, I just got the EPF rates.

KP- Yeah.

AA- EPF is putting 15 Billion.

KP- OK.

AA- They are putting 2026 at thirteen fifty. 2030 they are putting five... sorry. 2026 thirteen fifty five billion. 2030 thirteen sixty five five billion, and thirteen seventy five billion, OK ?

KP- OK.

AA- *Right. Now basically the go ahead is that the government has said that they're going to state funds, will bid between maybe thirteen thirteen half, and the private funds can go from thirteen fifty to fourteen fifty guaranteed.*

KP- OK.

AA- *Any bid between thirteen fifty and fourteen fifty they will accept. OK ?*

KP- OK.

AA- *This is the unofficial word that got this morning.*

KP- OK.

AA- *Beyond fourteen fifty it's going to be tough but they will most probably accept it. So you have to make a very very very smart call, because as what we mentioned yesterday, nobody, this is a bonus. This is a gift that has been given to us. Nobody has, nobody ever thought they, if somebody told you a month ago rates are going to twenty you would have thought this is talking rubbish.*

KP- Yeah.

AA- *OK. This is an unbelievable gift, so its, I, I'm a person who may, miss, by, you know, a this thing, but you know you never miss it. You, you're always pinpoint accurate so, so you make the call. I'll only give you the direction. I'll only give you the guidance. Right ?*

KP- OK.

AA- *OK. So, you decide whether you want to bid 30 billion,35 or 40. That's your call.*

KP- OK.

AA- *The, according to our friends, from the powerful places the more that we bid the better it is.*

KP- OK.

AA- *So, I'll leave that to you. The guidance for bidding, two thousand and thirty. We'll start with two thousand and thirty. He wants us to go from thirteen fifty to fourteen fifty, five billion.*

KP- *OK.*

AA- *You bid it anyway you want to bid it.*

KP- *OK.*

AA- *But weight, uh, weight is more towards the fourteen ranges as opposed to thirteen fifty. So thirteen fifty small, small, small, small, then go high. OK.?*

KP- *OK.*

AA- *Fourteen fifty or fourteen ninety you call, that again your call, ten billion.*

KP- *OK.*

AA- *But one shot either a five or a ten should be at a higher rate from PABC. If they can do ten, well good for us. If they can't do ten, well, tell us to give us a five. And if they do us a five and you do the deal at fourteen ninety or fourteen eighty, you decide, either way it will be accepted.*

KP- *Arjun, there's already ninety billion then. Sorry, uh, twenty billion there.*

AA- *No.*

KP- *On the thirty year. No, two thousand and thirty, yeah.*

AA- *Thirteen fifteen, thirteen fifty to fourteen fifty, five billion.*

KP- *OK.*

AA- *And, fourteen eighty or fourteen ninety one shot ten billion.*

KP- *Ah, OK. Fourteen nine.*

AA- *That's a, that's a grand total of fifteen billion. But if we don't get one shot five billion, uh, ten billion from them then we do five billion under PABC and five billion under Perpetual at maybe ten basis points lower across the range. So*



*that's, so, what I'm trying to say is that you're, the total we are bidding is fifteen billion for the two thousand and thirty.*

KP- OK.

AA- OK ? So, one shot ten, we'll do at fourteen eighty or fourteen ninety.

KP- OK.

AA- *But otherwise what we do is we'll do five billion one shot another five billion say we bid at fourteen ninety hypothetically then we'll bid fourteen seventy seven up to fourteen eighty eight Perpetual.*

KP- OK.

AA- So, a grand total of fifteen billion.

KP- OK.

AA- *If you want to be a little more adventurous put a two or three billion at your discretion at whatever rate between fourteen half to fourteen ninety. If you want to go more aggressive today.*

KP- OK.

AA- OK.? Clear ?

KP- Clear.

AA- *Then we are doing two thousand and twenty six. We're bidding eight to ten billion.*

KP- OK.

AA- *Eight to ten billion. We start off three billion between thirteen forty and fourteen fifty.*

KP- *Thirteen forty to fifty.*

AA- *Yeah, so the lower from thirteen level its lower and we load up on the fourteen level.*

KP- *Is the thirteen forty to fifty?*

AA- *Thirteen forty to fourteen fifty.*

KP- *Fourteen fifty. OK.*

AA- *Yes.*

KP- *OK.*

AA- *OK.?*

KP- *OK.*

AA- *Thirteen forty to fourteen fifty. Right ?*

KP- *Yeah.*

AA- *Then we have five billion, two plus three...*

KP- *OK.*

AA- *Two billion between fourteen sixty and fourteen sixty five.*

KP- *OK.*

AA- *And a three billion at fourteen sixty two to fourteen sixty seven.*

KP- *OK.*

AA- *Actually you're... Wrong, wrong, wrong, wrong. The three billion should be one shot. Fourteen seventy or fourteen sixty five. One shot three billion. For the two thousand twenty six.*

KP- *Sixty to seventy five range, three billion one shot?*

AA- *No, no, no, no, no. Like the way you're doing the fourteen eighty or fourteen ninety for the, uh, thirty year five billion or ten billion, this also that block big number should be one shot three billion. The, the highest we're bidding should be one shot three billion either through Pan Asia or Perpetual it doesn't matter,*

*but ideally through Pan Asia. So for example, fourteen seventy we do three billion, or fourteen sixty five we do three billion. I leave it to you.*

*KP- Four... Pan Asia might not be able to do it, Arjun, if they bid, uh, the total number they can do, so far is five. They said they'll come back whether they can increase.*

*AA- OK. Fine. So, then we'll do it under Perpetual.*

*KP- Yeah.*

*AA- So, one shot, two thousand and twenty six, one shot, three billion at fourteen sixty five or fourteen seventy, you decide. OK.?*

*KP- OK.*

*AA- Then the other two billion, we'll do between fourteen sixty five and fourteen sixty eight. Other two billion. That you can divide hundred, hundred, [inaudible] two hundred two hundred like that.*

*KP- Sixty five to sixty eight.*

*AA- Yeah.*

*KP- OK.*

*AA- Right. But one shot three billion at fourteen seventy then one shot two billion you divide between this thing and we do another three billion between thirteen forty and fourteen fifty. Got it ?*

*KP- Yeah.*

*AA- OK ? So that's a grand total of eight. And if you want to bid another two billion or three billion you do it at your discretion whatever you want to do it. Whatever you want to bid.*

*KP- OK.*

*AA- Because I'm giving you now the full calculation for the thirty billion. I'm giving you a full calculation for thirty billion. If you want to go thirty five or forty you decide how you want to do it in that range.*

KP- OK.

AA- *Then twenty five. Twenty five.*

KP- OK.

AA- *Twenty five we start three billion.*

KP- OK.

AA- *Between thirteen seventy.*

KP- OK.

AA- *To fourteen fifty. Three billion.*

KP- OK.

AA- *Four billion.*

KP- OK.

AA- *Two billion one shot between fourteen fifty and say fourteen sixty, or fifty five. And then two billion one shot at fourteen sixty, one big number at fourteen fifty.*

KP- *Two billion, again?*

AA- *One shot, two billion at fourteen sixty.*

KP- *Fourteen sixty. So altogether seven there.*

AA- *Yeah, but if you want, you can put another two or three more, depending on your discretion on these ranges.*

KP- OK.

AA- *Right then twenty six. The twenty six, if we are bidding twenty five, we are starting at thirteen seventy then we should not start twenty six there. We must put some rationale. So what do you think? Twenty six ?*

KP- *Twenty six, start at fourteen?*

AA- *You want to start at fourteen? OK. Fine.*

KP- *Or twenty five, twenty six, both start at thirteen seventy.*

AA- *No. Don't put, there must be some difference so they don't think it's a this thing, there must be some difference.*

KP- *Thirteen eighty then ?*

AA- *OK. Fine.*

KP- *Shall we repeat, Arjun, everything ?*

AA- *So you know the ranges. Do the needful. Now I'm going to give you a task, which you'll do in the next 20 minutes. I want a grand average of fourteen sixty to fourteen sixty five average on this thirty five to forty billion. OK ?*

KP- *OK.*

AA- *You try to do that. Tell me different scenarios and come up. Now you know the guidance. Like the other day you gave me the final this thing, you decide how you want to do it. Right ?*

KP- *OK.*

AA- *The risk we are facing is thirteen half to fourteen half everything will be taken.*

KP- *OK.*

AA- *The biggest risk we are facing is fourteen fifty onwards is going to be tight but most probably taken. So, you decide whether you want to run that risk or whether you don't want to run that risk. That also I'll leave it to you.*

KP- *OK.*

AA- *Apart from the ten billion that we are, fifteen, is, that is a sure shot, we'll take that.*

KP- *OK.*

AA- *OK. but it's going to be a tough call. I just got an SMS from NSB, that they have, they are bidding eight billion in total, NSB. So MSB eight billion, EPF fifteen billion, you're talking about eight plus fifteen, twenty three. I don't know about the others. So, I think we're very, I'm very confident that today's thirty to forty will be accepted, but, you just come back on the rates. Now you know the guidance and let me know. And I would like there to be averages between fourteen fifty five and fourteen sixty five, but again I'll leave that to you. If you think it's too ambitious. Ten basis points here and there I leave it to you.*

KP- *Can you give me fifteen minutes ? I'll come back to you with numbers then.*

AA- *You come back to me with the average plus what your suggestions are. And also remember I'm also going to tell you, but beyond fourteen half there is a risk we may lose it. Small risk but there is a risk. I must tell you that, no ?*

KP- *OK.*

AA- *Thirteen half to fourteen half everything will be accepted, but apart from the fifteen year that we have got special approval. But apart from that there may be a risk. OK ?*

KP- *OK.*

AA- *Right, now something else I want to share with you. This is a big auction for all of us. So, think very very hard. Sometimes, I go for the moon and I fall a little shorter. You have always been realistic. Remember this.*

KP- *Yeah.*

AA- *So, come. We will not get a chance like this again, Kasun.*

KP- *Yes Arjun.*

AA- *Anywhere between thirty and forty you make the call. Then we have Thursday, which we want to bid another twenty. If we bid forty then I want another twenty because I want a grand total of sixty in this run.*

KP- *OK.*

AA- *So whatever you feel that we can do on that. And then failing which we'll buy the rest on the secondary market. Come up with a strategy. We'll touch base again in fifteen minutes.*

KP- OK. Sir.

AA- Thanks.”.

During this conversation, Mr. Aloysius states that the EPF is to place Bids to the aggregate value of Rs.15 billion at the Auction held on 29<sup>th</sup> March 2016. He then purports to give details of the Bids which the EPF will place at the Auction, saying that EPF would place Bids to the value of Rs. 5 billion at a Yield Rate of 13.50 for the Treasury Bonds bearing ISIN LKB01226F014, Rs. 5 billion at a Yield Rate of 13.65 for the Treasury Bonds bearing ISIN LKB01530E152 and a further Rs. 5 billion at a Yield Rate of 13.70 for the Treasury Bond bearing ISIN LKB01530E152.

However, we note that in fact, EPF placed Bids only to the value of Rs. 500 million for Treasury Bonds bearing ISIN LKB01226F014 at a Yield Rate of 13.45; Rs. 500 million for Treasury Bonds bearing ISIN LKB01530E152 at a Yield Rate of 13.65; and Rs. 500 million for Treasury Bonds bearing ISIN LKB01530E152 at a Yield Rate of 13.70.

Thus, the information which Mr. Aloysius claims to have had, was imaginary or unfounded or erroneous.

Mr. Aloysius states, *“Now basically the go ahead is that the government has said that they’re going to state funds, will bid between maybe thirteen thirteen half, and the private funds can go from thirteen fifty to fourteen fifty guaranteed.”*.

This statement too establishes that, Mr. Aloysius was, in fact, aware of the instructions that had been given to the State Banks on 28<sup>th</sup> March 2016.

Mr. Aloysius then says, *“Any bid between thirteen fifty and fourteen fifty they will accept. OK ?.”* and *“This is the unofficial word got this morning.”*.

This statement suggests that, Mr. Aloysius had “inside information” regarding the levels at which the PDD would accept Bids at the Auction. However, here again, we have no reliable evidence to suggest the identity of the person or persons who may have given this information to Mr. Aloysius.

Mr. Aloysius goes on to state, *“The, according to our friends, from the powerful places the more that we bid the better it is.”*. Here too we have no reliable evidence to suggest the identity of the “friends, from the powerful places” who may have given this information to Mr. Aloysius. However, the use of this phrase suggests that, this person



or those persons were one or more key decision makers in the PDD or the Tender Board or the Governor of the CBSL.

Mr. Aloysius then gives instructions to Mr. Palisena with regard to the Rates at which to bid for the Treasury Bond bearing ISIN LKB01530E152 and say, *“We’ll start with two thousand and thirty. He wants us to go from thirteen fifty to fourteen fifty, five billion.”*

The use of the phrase *“He wants us to go from thirteen fifty to fourteen fifty, five billion.”* again indicates that, a person within the CBSL is guiding Mr. Aloysius on the Yield Rates at which Perpetual Treasuries Ltd should bid at this Auction.

Mr. Aloysius then states the following in connection to the Treasury Bond bearing ISIN LKB01226F014- *“The risk we are facing is thirteen half to fourteen half everything will be taken.”*

This statement too suggests that, Mr. Aloysius had information, from within the CBSL, that, all Bids in the range of 13.50 to 14.50 would be accepted.

Mr. Aloysius then stated, *“I just got an SMS from NSB, that they have, they are bidding eight billion in total, NSB. So MSB [NSB] eight billion, EPF fifteen billion, you’re talking about eight plus fifteen, twenty three. I don’t know about the others.”*

Here, Mr. Aloysius states that, the National Savings Bank will be placing Bids for a total sum of Rs. 8 billion at the Treasury Bond Auction held on 29<sup>th</sup> March 2016. However, we note that, in fact, the National Savings Bank placed Bids for an aggregate value of Rs. 12.08 billion at this Auction

To sum up, the statements made by Mr. Aloysius during these two telephone conversations are to the clear effect that, Mr. Aloysius had the benefit of advice, guidance and “inside information” provide to him by one or more persons in the CBSL, who were key decision makers in the decision making process which leads to the acceptance of Treasury Bonds at an Auction.

Further, the statements made by Mr. Aloysius during these two telephone conversations are to the effect that, he had the benefit of “inside information” provided to him by one or more persons in the EPF, the National Savings Bank and also the Bank of Ceylon.

Further, the statements made by Mr. Aloysius during these two telephone conversations show that, Perpetual Treasuries Ltd expected to place Bids at the Auction, through Pan Asia Banking Corporation PLC.

We also note that, the absence of any surprise exhibited by Mr. Palisena when Mr. Aloysius made these statements and the fact that, Mr. Palisena did not inquire how or why Mr. Aloysius was making these statements, is cogent evidence which establishes that, Mr. Palisena knew that, in the course of the usual operations of Perpetual Treasuries Ltd, Mr. Aloysius would: (i) obtain advice, guidance and “inside information” from one or more persons in the CBSL , who were key decision makers in the decision making process which leads to the acceptance of Treasury Bonds at an Auction; obtain “inside information” from one or more persons in the EPF, the National Savings Bank and also the Bank of Ceylon ; and that, Perpetual Treasuries Ltd would sometimes place Bids at Auctions, through Pan Asia Banking Corporation PLC.

#### **Section 19.5.6 - The Treasury Bond Auction held on 29<sup>th</sup> March 2016**

Since no Bids were accepted at the Auction held on 24<sup>th</sup> March 2016, the PDD still needed to raise the sum of Rs. 105 billion required on 01<sup>st</sup> April 2016, when this Auction was held on 29<sup>th</sup> March 2016.

At this Auction held on 29<sup>th</sup> March 2016, the CBSL offered Rs. 10 billion for sale on each of the following 4 Treasury Bonds:

- (i) LKB00520E014 with a Tenor of 04 Years and 01 Month;
- (ii) LKB01025C157 with a Tenor of 08 Years and 11 Months;
- (iii) LKB01226F014 with a Tenor of 10 Years and 02 Months;
- (iv) LKB01530E152 with a Tenor of 14 Years and 01 Month.

Thus, Treasury Bonds to an aggregate value of Rs. 40 billion were offered for sale at this Auction.

Much of the sum of Rs. 105 billion that had to be raised on 01<sup>st</sup> April 2016 was for the purpose of settling sums due on Treasury Bonds which matured on that day and sums due on Interest Payments upon Treasury Bonds which fell due on that day.

The dates of maturity of all Treasury Bonds and dates of payment of Interest upon Treasury Bonds are published and are known to the market. Therefore, most Primary Traders would have known that, the PDD had to raise a substantial amount of funds at this Auction to be held on 29<sup>th</sup> March 2016.

That knowledge was made more certain when all Bids were rejected at the Auction held a few days earlier on 24<sup>th</sup> March 2016, at which Treasury Bonds to the aggregate value of Rs.25 million had been offered for sale, because the Bids received at that Auction had been at Yield Rates which the CBSL considered to be unacceptably high.

Therefore, it is reasonable to assume that, when Primary Dealers placed their Bids at this Auction held on 29<sup>th</sup> March 2016, they were guided by the knowledge that, while the CBSL needed to raise a large quantum of funds by 01<sup>st</sup> April 2016, the Yield Rates at which Bids were placed at the Auction also had to be carefully calculated to avoid a scenario in which the CBSL decided to reject all or most of the Bids on the basis that, the Yield Rates were unacceptably high and resort to obtain the required funding from alternative sources. In this connection, the CBSL had, *inter alia*, the option of reverting to accepting some Direct Placements from one or more “Captive Sources” in view of the circumstances the CBSL was facing and also the option of raising some part of the funds by way of Sri Lanka Development Bonds, since an Auction of these Bonds had been recently. Further, another Auction of Treasury Bonds was to be held on 31<sup>st</sup> March 2016.

In any event, when the Auction closed on 29<sup>th</sup> March 2016, it was found that, as set out below, a high value of Bids had been received:

- (i) LKB00520E014 - 122 Bids to the aggregate value of Rs. 27.022 billion.
- (ii) LKB01025C157- 167 Bids to the aggregate value of Rs. 36.915 billion.
- (iii) LKB01226F014 - 147 Bids to the aggregate value of Rs. 32.560 billion.
- (iv) LKB01530E152 - 200 Bids to the aggregate value of Rs. 45.925 billion.

The range of the Yield Rates [Net of Tax] at which these Bids were placed, are set out below:

- |       |              |   |                    |
|-------|--------------|---|--------------------|
| (i)   | LKB00520E014 | - | 12.5000 to 18.9999 |
| (ii)  | LKB01025C157 | - | 12.7503 to 20.7504 |
| (iii) | LKB01226F014 | - | 12.9996 to 24.4998 |
| (iv)  | LKB01530E152 | - | 12.7998 to 26.0001 |

Since it is likely that, the Bids at the higher end of the range are more speculative in nature and may not reflect the actual perception in the Market with regard to what the realistic Yield Rates were, we have identified the highest Yield Rates in the 50<sup>th</sup> percentile of the Bids [by number of Bids] and in the 75<sup>th</sup> percentile of the Bids [by number of Bids]. These details are set out below:

- |      |              |   |  |
|------|--------------|---|--|
| (i)  | LKB00520E014 | - | 14. 2002 [50 <sup>th</sup> percentile]<br>15. 0003 [75 <sup>th</sup> percentile] |
| (ii) | LKB01025C157 | - | 14. 1003 [50 <sup>th</sup> percentile]<br>15. 2496 [75 <sup>th</sup> percentile] |

- |       |              |   |  |
|-------|--------------|---|--|
| (iii) | LKB01226F014 | - | 14. 3001 [50 <sup>th</sup> percentile]<br>16. 1001 [75 <sup>th</sup> percentile] |
| (iv)  | LKB01530E152 | - | 14. 3001 [50 <sup>th</sup> percentile]<br>15. 3999 [75 <sup>th</sup> percentile] |

As set out in the Option Sheets prepared by the PDD, the PDD recommended that Bids to the following values be accepted:

- |       |              |   |   |
|-------|--------------|---|---|
| (i)   | LKB00520E014 | - | The PDD recommended that, Bids to the value of Rs. 10.272 billion be accepted at a Weighted Average Yield Rate [Net of Tax] of 12.78. |
| (ii)  | LKB01025C157 | - | The PDD recommended that, Bids to the value of Rs. 21.475 billion be accepted at a Weighted Average Yield Rate [Net of Tax] of 13.80. |
| (iii) | LKB01226F014 | - | The PDD recommended that, Bids to the value of Rs. 17.010 billion be accepted at a Weighted Average Yield Rate [Net of Tax] of 13.93. |
| (iv)  | LKB01530E152 | - | The PDD recommended that, Bids to the value of Rs. 28.975 billion be accepted at a Weighted Average Yield Rate [Net of Tax] of 14.23. |

As set out in the Minutes of the meeting of the Tender Board held on 29<sup>th</sup> March 2016:

“ ***The Tender Board made the following observations:***

- a) *Today’s auction was to raise funds for the coupon payment of Treasury Bonds, foreign interest and capital payments amounting to Rs. 105 bn on 01.04.2016 while treasury has requested for additional Rs. 17 bn to meet the debt service payment of the rest of the month.*
- b) *Rejection of the bond auction held on 24.03.2016 appears to have had some favourable impact on the yield rate on 4 years 1 month maturity and noticeable impact on the volume of bids with more options to raise funds than the options that were available at the previous auction.*

- c) Accordingly as per the department recommendation, a total of Rs. 77.73 bn face value can be raised from the auction as compared to Rs. 12.91 bn face value recommended at the previous auction.
- d) As per the bid pattern, the rate speculation has somewhat decelerated in 4 year 1 month and 8 year 11 months compared to the auction bidding pattern.
- e) However, it is not advisable to raise funds from this auction to meet the full funding requirement as the yield rate increase seems to be excessive.

**Decision**

Accordingly, the Tender Board decided to accept the departmental recommendation as follows.”.

Series	9.25% 2020 'A'	10.25% 2025 'A'	11.00% 2026 'A'	11.00% 2030A
Period to maturity	04 Years 01 Month	08 Years 11 Months	10 Years 02 Months	14 Years 01 Month
Amount Accepted (Rs. mn)	10.272	21.475	17.010	28.975
Weighted Average Yield Rate (WAYR) %	12.78	13.80	13.93	14.23
Secondary Market Yield Rates for similar Maturity%	12.50	13.10	13.20	13.25
WAYR of Last Corresponding Auction %	11.87 (March 2016)	11.77 (May 2013)	11.14 (Feb 2016)	11.66 (Feb 2016)
<b>Change in WAYR from Last</b>	91	203	279	256

Corresponding Auction (bps)				
Change in WAYR from Current Secondary Market Yield Rates (bps)	28	70	73	98

Here too, Mr. Mahendran has approved the aforesaid decision of the Tender Board by signing the Minutes of the meeting of the Tender Board held on 29<sup>th</sup> March 2016 under the words “*Approval of the Governor*”. We assume he did do, though on leave, for the reasons set out earlier, in Section 19.5.3.

We note that, although Mr. T.H.B. Sarathchandra, the then Superintendent of Public Debt had been told by Ms. Roshini Wijeratne of the Peoples’ Bank that the Peoples’ Bank had been instructed to place Bids within a specified range of Yield Rates, [when Ms. Wijeratne telephoned him earlier that day], and Mr. Sarathchandra has undertaken to convey this information to the Tender Board, the Minutes of the meeting of the Tender Board meeting held on 29<sup>th</sup> March 2016 do not reflect that, Mr. Sarathchandra informed the Tender Board of these relevant facts.

Since we did not have the opportunity to obtain Mr. Sarathchandra’s evidence in explanation, we will refrain from drawing any inferences adverse to Mr. Sarathchandra.

In any event, it is evident that, the Tender Board accepted all the recommendations made by the PDD and that, Treasury Bonds with a total Face Value of Rs. 77.732 billion [and a total Settlement Value of Rs. 59.325 billion] were accepted at this Auction upon all four ISINs that were offered at the Auction.

Thereby, 56% of the sum of Rs.105 billion which had to be raised on 01<sup>st</sup> April 2016, was obtained at this Auction held on 29<sup>th</sup> March 2016.

**First**, we have to consider whether the PDD and the Tender Board acted irregularly when: (i) the PDD recommended that, Bids for Treasury Bonds with a total Face Value of Rs. 77.732 billion, which included a significant percentage of Bids which were at higher Yield Rates than the Yield Rates which were specified by the then Minister of Finance at which three State Banks had placed their Bids, be accepted; (ii) and the Tender Board decided to accept this recommendation.

In this connection, we have no evidence before us which establishes that, the Ministry of Finance or any other person informed the PDD or any officers of the CBSL that, these instructions had been given to the three State Banks. While it is possible that, the PDD or one or more officers of the CBSL had been told of these instructions by the Ministry of Finance or another person, we cannot proceed on such a basis, in the absence of evidence to that effect.

While we note that, as observed in Section 19.5.4 above, Mr. Sarathchandra, Superintendent of Public Debt had been told, by Ms Roshini Wijeratne, about the instructions given to the People's Bank and Mr. Sarathchandra has undertaken to convey this information to the Tender Board, we have to keep in mind that, we have no evidence which suggests that, Mr Sarathchandra conveyed what had been told to him by Ms. Wijeratne to his colleagues in the PDD or to the Tender Board.

In these circumstances, we cannot fairly come to a conclusion that, the other officers of the PDD or the members of the Tender Board [*ie*: other than Mr Sarathchandra] knew of the instructions given to the three State Banks to place Bids within a specified range of Yield Rates or of the assurance given to the three State Banks that, Bids at higher Yield Rates would not be accepted.

In those circumstances, we cannot conclude that, the officers of the PDD [other than Mr. Sarathchandra] and the members of the Tender Board [other than Mr. Sarathchandra] acted irregularly when (i) the PDD recommended that, Bids for Treasury Bonds with a total Face Value of Rs. 77.732 billion, which included a significant percentage of Bids at higher Yield Rates than the specified Yield Rates at which three State Banks had placed their Bids, be accepted; (ii) the Tender Board decided to accept this recommendation.

With regard to Mr. Sarathchandra, although he had some knowledge of these instructions following his telephone conversation with Ms. Roshini Wijeratne, we do not draw any inference adverse to Mr. Sarathchandra because we have not heard his evidence in explanation.

With regard to Mr. Mahendran, who has approved the decision of the Tender Board to accept Bids for Treasury Bonds with a total Face Value of Rs. 77.732 billion [including a significant percentage of Bids which were at higher Yield Rates than the Yield Rates which were specified by the then Minister of Finance], we note that, when Mr. Mahendran gave evidence, he denied that he had any knowledge of the meeting held at the Ministry of Finance on 28<sup>th</sup> March 2016 and denied that he knew of any instructions given to the three State Banks at this meeting. He said that, he learnt of these matters only when he read about the evidence led before the Commission of Inquiry with regard to these matters.



We have no evidence before us which establishes that, Mr. Mahendran had been informed, on or before 29<sup>th</sup> March 2016, of the meeting held at the Ministry of Finance on 28<sup>th</sup> March 2016 or of the instructions had been given to the three State Banks at that meeting. While it is possible that, Mr. Mahendran had been told of these instructions, we cannot proceed on such a basis, in the absence of evidence to that effect. We also note that, Mr. Mahendran was on leave from the CBSL at that time and that he said, his only involvement with this Auction was the act of approving Minutes of the meeting of the Tender Board when they were sent to him.

In any event, we would think that, in the absence of an “official” communication from the Ministry of Finance to the CBSL that the aforesaid instruction had been given to the three State Banks and an “official” request made by the Ministry of Finance that the CBSL honours the assurance given to the three State Banks that Bids at higher Yield Rates [i.e: at Yield Rates higher than those specified by the then Minister of Finance] would not be accepted, the CBSL was under no obligation to refrain from accepting Bids at higher Yield Rates if it was necessary to do so to raise the very large sum of Rs. 105 billion required on 01<sup>st</sup> April 2016.

For the aforesaid reasons, we conclude that, there is no evidence before us which establishes that, the PDD or the Tender Board or Mr. Mahendran acted unreasonably or improperly when a decision was taken to accept Bids for Treasury Bonds with a total Face Value of Rs. 77.732 billion at Yield Rates which were higher than the Yield Rates which were specified by the then Minister of Finance at which three State Banks had placed their Bids.

We consider it appropriate to state here that, this Commission of Inquiry is called upon the ascertain facts and circumstances relating to the matters falling within our Mandate. We can ascertain those facts and circumstances only upon reliable evidence and, where permitted by law and equity, conclusions and inferences which we can draw from facts and circumstances which have been established by reliable evidence. We cannot reach conclusions or draw inferences on mere suspicion, surmise or speculation.

**Second**, we have to consider whether the recommendations made by the PDD with regard to the Bids to be accepted at the Treasury Bond Auction held on 29<sup>th</sup> March 2016 and the decision of the Tender Board were unreasonable or improper.

When doing so, we will be mindful, as stated earlier, that, the officers of the CBSL have the specialized knowledge and experience and the authority and discretion to make decisions with regard to the acceptance of Bids at an Auction and that, we should refrain from venturing to make ‘technical’ judgments and “second guess” decisions

taken by these officers unless they are manifestly perverse or are shown to have been made for improper reasons.

With regard to the Treasury Bonds bearing ISIN LKB00520E014, as set out above, Bids to the value of Rs. 10.272 billion at a Weighted Average Yield Rate [Net of Tax] of 12.78 were accepted at this Auction.

This Weighted Average Yield Rate [Net of Tax] of 12.78 is placed half way within the aforesaid 50<sup>th</sup> percentile of the Yield Rates of the Bids placed at the Auction.

We note that, the Weighted Average Yield Rate [Net of Tax] at which these Treasury Bonds were accepted on 29<sup>th</sup> March 2016 was less than Weighted Average Yield Rate [Net of Tax] of 13.02 at which the PDD had recommended a smaller amount of Rs. 2.578 billion of similar Treasury Bonds bearing the same ISIN be accepted at the previous Auction held on 24<sup>th</sup> March 2016 [eventually, as set out above, all Bids were rejected by the Tender Board on 24<sup>th</sup> March 2016].

Thus, it appears that, the rejection of these Bids at Auction held on 24<sup>th</sup> March 2016 had the desired result and enabled the CBSL to raise a much larger value of these Treasury Bonds, at a lesser cost, on 29<sup>th</sup> March 2016.

In these circumstances and in the light of the clear evidence that, in March 2016, there was upward pressure on the Yield Rates and in view of the very large funding requirement of Rs. 105 billion on 01<sup>st</sup> April 2016, we see no manifest reason to consider that, the PDD and the Tender Board acted unreasonably or improperly, when it was decided to accept Bids to the value of Rs. 10.272 billion at a Weighted Average Yield Rate [Net of Tax] of 12.78, in respect of the Treasury Bonds bearing ISIN LKB00520E014 at the Treasury Bond Auction held on 29<sup>th</sup> March 2016.

With regard to the Treasury Bonds bearing ISIN LKB01025C157, as set out above, Bids to the value of Rs. 21.475 billion at a Weighted Average Yield Rate [Net of Tax] of 13.80 were accepted at this Auction.

This Weighted Average Yield Rate [Net of Tax] of 13.80 is placed within the aforesaid 50<sup>th</sup> percentile of the Yield Rates of the Bids placed at the Auction.

We note that, the Weighted Average Yield Rate [Net of Tax] at which these Treasury Bonds were accepted on 29<sup>th</sup> March 2016 was 46 basis points more than the Weighted Average Yield Rate [Net of Tax] of 13.34 at which the PDD had recommended a much smaller amount of Rs. 4.4000 billion of Treasury Bonds with the same Tenor and bearing the same ISIN be accepted at the previous Auction held on 24<sup>th</sup> March 2016

[eventually, as set out above, all Bids were rejected by the Tender Board on 24<sup>th</sup> March 2016].

Thus, it appears that, the rejection of these Bids at Auction held on 24<sup>th</sup> March 2016 also had the desired result and enabled the CBSL to raise a much larger value of these Treasury Bonds, at a slightly higher cost, on 29<sup>th</sup> March 2016.

In these circumstances and in the light of the clear evidence that, in March 2016, there was upward pressure on the Yield Rates and in view of the very large funding requirement of Rs. 105 billion on 01<sup>st</sup> April 2016, we see no manifest reason to consider that, the PDD and the Tender Board acted unreasonably or improperly, when it was decided to accept Bids to the value of Rs. 21.475 billion at a Weighted Average Yield Rate [Net of Tax] of 13.80, in respect of the Treasury Bonds bearing ISIN LKB01025C157 at the Treasury Bond Auction held on 29<sup>th</sup> March 2016.

With regard to the Treasury Bonds bearing ISIN LKB01226F014, as set out above, Bids to the value of Rs. 17.010 billion at a Weighted Average Yield Rate [Net of Tax] of 13.93 were accepted at this Auction.

This Weighted Average Yield Rate [Net of Tax] of 13.80 is placed within the aforesaid 50<sup>th</sup> percentile of the Yield Rates of the Bids placed at the Auction.

We note that, the Bids accepted in respect of the other two Treasury Bonds offered at the Auction held on 24<sup>th</sup> March 2016 cannot be compared here because the Treasury Bonds offered at the Auction held on 24<sup>th</sup> March 2016 had very different Tenors.

Here too, in the light of the clear evidence that, in March 2016, there was upward pressure on the Yield Rates and in view of the very large funding requirement of Rs. 105 billion on 01<sup>st</sup> April 2016, we see no manifest reason to consider that, the PDD and the Tender Board acted unreasonably or improperly, when it decided to accept Bids to the value of Rs. 17.010 billion at a Weighted Average Yield Rate [Net of Tax] of 13.93, in respect of the Treasury Bonds bearing ISIN LKB01226F014 at the Treasury Bond Auction held on 29<sup>th</sup> March 2016.

With regard to the Treasury Bonds bearing ISIN LKB01530E152, as set out above, Bids to the value of Rs. 28.975 billion at a Weighted Average Yield Rate [Net of Tax] of 14.23 were accepted at this Auction.

This Weighted Average Yield Rate [Net of Tax] of 14.23 is placed within the aforesaid 50<sup>th</sup> percentile of the Yield Rates of the Bids placed at the Auction.

We note that, the Bids accepted in respect of the other two Treasury Bonds offered at the Auction held on 24<sup>th</sup> March 2016 cannot be compared here either, because the Treasury Bonds offered at the Auction held on 24<sup>th</sup> March 2016 had very different Tenors.

Here too, in the light of the clear evidence that, in March 2016, there was upward pressure on the Yield Rates and the in view of the very large funding requirement of Rs. 105 billion on 01<sup>st</sup> April 2016, we see no manifest reason to consider that, the PDD and the Tender Board acted unreasonably or improperly, when it was decided to accept Bids to the value of Rs. 28.975 billion at a Weighted Average Yield Rate [Net of Tax] of 14.23, in respect of the Treasury Bonds bearing ISIN LKB01226F014 at the Treasury Bond Auction held on 29<sup>th</sup> March 2016.

**Third**, we have to consider the issue of whether, instead of accepting Treasury Bonds with an aggregate value of Rs. 77.732 billion at the Treasury Bond Auction held on 29<sup>th</sup> March 2016, the PDD and/or the Tender Board and/or Mr. Mahendran should, instead, have opted to raise part of this sum of Rs. 77.732 billion, at lower Yield Rates, by accepting some Direct Placements from one or more “Captive Sources” and/or by raising Sri Lanka Development Bonds and/or at the Auction of Treasury Bonds to be held on 31<sup>st</sup> March 2016 or at an Auction to be held on another date.

We are of the view that, when considering this issue, we should keep the following facts and circumstances in mind:

- (i) The aggregate sum of Bids to value of Rs. Rs. 77.732 billion which were accepted at the Treasury Bond Auction held on 29<sup>th</sup> March 2016, was not more than twice the value of the offered aggregate amount of Rs. 40 billion.

That variation was well within the usual practice of the PDD and the Tender Board;

- (ii) A very large sum of Rs. 105 billion had to be raised on 01<sup>st</sup> April 2016 to meet the payments due on Treasury Bonds maturing for payment on that day and interest payable on that day and other obligations of the Government.

Therefore, the CBSL was under pressure to ensure that, a substantial sum was raised at the Treasury Bond Auction held on 29<sup>th</sup> March 2016;

- (iii) The Weighted Average Yield Rates [Net of Tax] at which Bids were accepted at the Treasury Bond Auction held on 29<sup>th</sup> March 2016 were

not unreasonably high in the light of the prevailing circumstances in the Market and the upward pressure on Yield Rates which commenced from early 2016 onwards;

- (iv) The identity of the Bidders was not disclosed of the Bids Received Sheets used by the PDD to formulate its recommendations to the Tender Board and was not known to the Tender Board when it considered these recommendations and decided to accept Bids to the aggregate value of Rs. 77.732 billion, as recommended by the PDD.
- (v) The practice of accepting Direct Placement had been done away with over a year before 29<sup>th</sup> March 2016 and the PDD or the Tender Board did not have authority to decide to accept Direct Placements on 29<sup>th</sup> March 2016.

Mr. Mahendran was on leave and his evidence is to the effect that, he had no involvement with this Auction other than for approving the Minutes of the meeting of the Tender Board when they were sent to him. That had to be in the afternoon of 29<sup>th</sup> March 2016, at the earliest.

In this connection, we also have to keep in mind that, after the Monetary Board headed by Dr. Indrajith Coomaraswamy decided to introduce the “Hybrid System” of issuing Treasury Bonds [which provides for the acceptance of what may be broadly described as a variation of the previously accepted “Direct Placement”], the CBSL studied this scheme for close to a year before it was introduced.

In the aforesaid circumstances, Mr. Mahendran cannot be considered to have been obliged, when he received the Minutes of the meeting of the Tender Board in the afternoon of 29<sup>th</sup> March 2016 [at the earliest], to direct the Tender Board to vary its decision and to accept, by way of Direct Placements, a part of the sum Rs. 77.732 million which the Tender Board had decided to accept by way of Bids placed at the Treasury Bond Auction held on that day;

- (vi) Since Rs. 105 billion had to be raised on 01<sup>st</sup> April 2016 and the acceptance of Bids to the value of Rs. 77.732 billion resulted in only 56% of this sum being raised at the Treasury Bond Auction held on 29<sup>th</sup> March 2016, the PDD and the Tender Board could have reasonably decided that, CBSL would, in any event, be compelled to resort to raising, by way of Sri Lanka Development Bonds, a part of the balance monies required on 01<sup>st</sup> April 2016;

- (vii) Since Rs. 105 billion had to be raised on 01<sup>st</sup> April 2016, the PDD and the Tender Board was compelled to raise a substantial part of this sum at the Treasury Bond Auction held on 29<sup>th</sup> March 2016 and it would have been most unwise to postpone doing so.

In the light of the facts and circumstances enumerated above, we are of the view that, there is no manifest reason to consider that, the PDD or the Tender Board or Mr. Mahendran acted unreasonably or improperly when a decision was taken to accept Treasury Bonds with an aggregate value of Rs. 77.732 billion at the Treasury Bond Auction held on 29<sup>th</sup> March 2016 and not exercise an option of raising a part of this sum of Rs. 77.732 billion by accepting some Direct Placements from one or more “Captive Sources” and/or by raising Sri Lanka Development Bonds and/or at another Auction of Treasury Bonds.

In the aforesaid circumstances, we do not see any *ex facie* irregularity in the decision making process which led to the CBSL accepting Treasury Bonds with an aggregate value of Rs. 77.732 billion at the Treasury Bonds Auction held on 29<sup>th</sup> March 2016.

**Secondly**, as observed earlier, during the course of the aforesaid two telephone conversations Mr. Aloysius had with Mr. Palisena on 29<sup>th</sup> March 2016, Mr. Aloysius made several statements which indicate that, he had “inside information” [or “price sensitive information”] with regard to the Auctions held on 29<sup>th</sup> March 2016 and also that, Pan Asia Banking Corporation PLC had agreed to place some Bids on behalf of Perpetual Treasuries Ltd at this Auction.

Therefore, we consider it necessary to examine the Bids placed by both Perpetual Treasuries Ltd and Pan Asia Banking Corporation PLC at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016.

We set out below, the total Bids placed by Perpetual Treasuries Ltd [Table 1] and Pan Asia Banking Corporation PLC [Table 2] at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016.

**TABLE 1 - BIDS PLACED BY PERPETUAL TREASURIES LTD AT THE  
TREASURY BOND AUCTION HELD ON 29<sup>TH</sup> MARCH 2016**

ISIN	AMOUNT	YIELD RATE [NET OF TAX]	ACCEPTED/ REJECTED
<b>LKB00520E014</b>	<i>50,000,000</i>	<i>12.9996</i>	<i>Accepted</i>
	50,000,000	13.1004	Rejected
	50,000,000	13.2003	Rejected
	50,000,000	13.3002	Rejected
	50,000,000	13.5000	Rejected
	100,000,000	14.0004	Rejected
	100,000,000	14.2497	Rejected
	100,000,000	14.4999	Rejected
	100,000,000	14.7501	Rejected
	100,000,000	15.0003	Rejected
	100,000,000	15.2496	Rejected
	100,000,000	15.4998	Rejected
	100,000,000	15.7500	Rejected
	<i>50,000,000</i>	<i>13.5000</i>	<i>Accepted</i>
	<i>50,000,000</i>	<i>13.5999</i>	<i>Accepted</i>
	<i>50,000,000</i>	<i>13.5999</i>	<i>Accepted</i>
	<i>50,000,000</i>	<i>13.6998</i>	<i>Accepted</i>
	<i>100,000,000</i>	<i>13.6998</i>	<i>Accepted</i>
	<i>50,000,000</i>	<i>13.7997</i>	<i>Accepted</i>
	<i>150,000,000</i>	<i>13.7997</i>	<i>Accepted</i>



ISIN	AMOUNT	YIELD RATE [NET OF TAX]	ACCEPTED/ REJECTED
<b>LKB01025C157</b>	50,000,000	13.8996	Accepted
	200,000,000	13.8996	Accepted
	50,000,000	14.0004	Accepted
	100,000,000	14.0004	Accepted
	250,000,000	14.0004	Accepted
	50,000,000	14.1003	Accepted
	250,000,000	14.1003	Accepted
	50,000,000	14.2002	Accepted
	500,000,000	14.2002	Accepted
	50,000,000	14.3001	Accepted
	750,000,000	14.3001	Accepted
	50,000,000	14.4000	Accepted
	750,000,000	14.4000	Accepted
	50,000,000	14.4999	Accepted
	750,000,000	14.4999	Accepted
	2,000,000,000	14.5503	Accepted
	50,000,000	14.5998	Accepted
	2,000,000,000	14.5998	Accepted
	50,000,000	14.6996	Rejected
	50,000,000	14.7996	Rejected
50,000,000	14.9004	Rejected	

ISIN	AMOUNT	YIELD RATE [NET OF TAX]	ACCEPTED/ REJECTED
<b>LKB01226F014</b>	50,000,000	13.6998	Accepted
	100,000,000	13.7997	Accepted
	150,000,000	13.8996	Accepted
	200,000,000	14.0004	Accepted
	250,000,000	14.1003	Accepted
	250,000,000	14.2002	Accepted
	500,000,000	14.3001	Accepted
	750,000,000	14.4000	Accepted
	100,000,000	14.4999	Accepted
	750,000,000	14.4999	Accepted
	500,000,000	14.6502	Accepted
	500,000,000	14.6601	Accepted
	500,000,000	14.6700	Accepted
	500,000,000	14.6799	Accepted
	500,000,000	14.6897	Accepted
2,000,000,000	14.6996	Accepted	
<b>LKB01530E152</b>	50,000,000	13.5000	Accepted
	50,000,000	13.5000	Accepted
	100,000,000	13.5999	Accepted
	150,000,000	13.6998	Accepted
	200,000,000	13.7997	Accepted

ISIN	AMOUNT	YIELD RATE [NET OF TAX]	ACCEPTED/ REJECTED
	250,000,000	13.8996	Accepted
	5,000,000	14.0004	Accepted
	25,000,000	14.0004	Accepted
	150,000,000	14.0004	Accepted
	250,000,000	14.0004	Accepted
	5,000,000	14.1003	Accepted
	1,000,000,000	14.1003	Accepted
	25,000,000	14.2002	Accepted
	1,000,000,000	14.2002	Accepted
	25,000,000	14.3001	Accepted
	1,000,000,000	14.3001	Accepted
	25,000,000	14.4000	Accepted
	1,000,000,000	14.4000	Accepted
	1,000,000,000	14.6502	Accepted
	1,000,000,000	14.6601	Accepted
	1,000,000,000	14.6700	Accepted
	1,000,000,000	14.6799	Accepted
	1,000,000,000	14.6799	Accepted

**TABLE 2- BIDS PLACED BY PAN ASIA BANKING CORPORATION AT THE  
TREASURY BOND AUCTION HELD ON 29<sup>TH</sup> MARCH 2016**

ISIN	AMOUNT	YIELD RATE	ACCEPTED/ REJECTED
LKB00520E014	1,000,000,000	15.0003	Rejected
LKB01025C157	120,000,000	13.6998	Accepted
	1,000,000,000	16.0002	Rejected
LKB01226F014	100,000,000	13.5000	Accepted
	1,000,000,000	17.0001	Rejected
LKB01530E152	150,000,000	13.5999	Accepted
	50,000,000	13.6503	Accepted
	100,000,000	13.6998	Accepted
	100,000,000	14.0004	Accepted
	5,000,000,000	14.7996	Accepted
	1,000,000,000	18.0000	Rejected

The telephone conversations between Mr. Arjun Aloysius and Mr. Kasun Palisena on 29<sup>th</sup> March 2016, establish that, the aforesaid Bid of Rs. 5 billion at a Yield Rate of 14.7996 which was placed by Pan Asia Banking Corporation PLC for Treasury Bonds bearing LKB01530E152, was placed on behalf of Perpetual Treasuries Ltd. Thus, Mr. Aloysius tells Mr. Palisena to place Bids for Rs. 10 billion for Treasury Bonds bearing LKB01530E152 and says, “Right. Pan Asia one shot. I don’t know whether Pan Asia will give it. If Pan Asia doesn’t give it to us as one shot, **then you put five billion which they’ve already agreed and they’ve given us** and the other five billion you do through Perpetual .....

Mr. Palisena to place Bids for Treasury Bonds bearing LKB01530E152 through Pan Asia Banking Corporation PLC, Mr. Palisena says, “..... *the total number they can do, so far, is five. They said they’ll come back whether they can increase*”. Further, when Mr. R.A.B. Dias of Pan Asia Banking Corporation PLC gave evidence, he admitted that, Pan Asia Banking Corporation PLC had placed Bids at this Auction on behalf of Perpetual Treasuries Ltd.

The Bids placed by Perpetual Treasuries Ltd and Pan Asia Banking Corporation PLC which are set out in Table 1 and Table 2 above, show that:

- (i) In the case of Treasury Bonds bearing ISIN LKB00520E014, Perpetual Treasuries Ltd has submitted 13 Bids for an aggregate amount of Rs. 1.05 billion and only one Bid in a sum of Rs. 50 million was accepted;
- (ii) In the case of Treasury Bonds bearing ISIN LKB01025C157, Perpetual Treasuries Ltd has submitted 28 Bids for an aggregate amount of Rs. 8.6 billion and Bid for an aggregate value of Rs. 8.45 billion were accepted. Only three Bids of Rs. 50 million each were rejected;
- (iii) In the case of Treasury Bonds bearing ISIN LKB01226F014, Perpetual Treasuries Ltd has submitted 16 Bids for an aggregate amount of Rs. 7.6 billion and all these Bids were accepted;
- (iv) In the case of Treasury Bonds bearing ISIN LKB01530E152, Perpetual Treasuries Ltd [on its own account and through Pan Asia Banking Corporation PLC] has submitted 24 Bids for an aggregate amount of Rs. 15.310 billion and all these Bids were accepted.

In this regard, we note that, a perusal of Table 1 above shows that, the Bids placed by Perpetual Treasuries Ltd are in line with the instructions given by Mr. Aloysius to Mr. Palisena during the aforesaid telephone conversations they had on 29<sup>th</sup> March 2016, before the Bids were place.

Thus, for example, Mr. Aloysius tells Mr. Palisena during those telephone conversations, “*There’s a low four year. We are not interested in that four year*”. The “*four year*” he was referring to the aforesaid Auction of Treasury Bonds bearing ISIN LKB00520E014 which had a Tenor of 04 years and 11 months. As stated above, Perpetual Treasuries Ltd only had Bids to the value of Rs. 50 million accepted at that Auction. That was in line with the instructions given by Mr. Aloysius.

Thereafter, Mr. Aloysius tells Mr. Palisena during those telephone conversations, “*We are only interested in the twenty five, twenty six and thirty*”. The *twenty five, twenty six*

*and thirty*” he was referring to are the aforesaid Auctions of Treasury Bonds bearing ISINs LKB01025C157, LKB01226F014 and ISIN LKB01530E152, Perpetual Treasuries Ltd had Bids to the values of Rs. 8.45 billion, 7.6 billion and 10.310 billion respectively, accepted at those three Auctions. That was also in line with the instructions given by Mr. Aloysius.

Further, Mr. Aloysius tells Mr. Palisena during those telephone conversations, to bid Rs. 7 billion or 8 billion each for the Treasury Bonds bearing ISIN LKB01025C157 and ISIN LKB01226F014. As stated earlier, Perpetual Treasuries Ltd submitted Bids for aggregate amount of 8.6 billion and Rs. 7.6 billion for these two Treasury Bonds. That was also in line with the instructions given by Mr. Aloysius.

Next, Mr. Aloysius first says that, Perpetual Treasuries Ltd [either directly or through Pan Asia Banking Corporation] should place Bids at the Auction of Treasury Bonds bearing ISIN LKB01530E152 at Yield Rates which are in the region between 14.77 and 14.78 and then goes on to say, that Bids should be placed at Yield Rates which are above 14.79. In this connection, Mr. Aloysius states, *“You do a mix and match. Fourteen seventy seven or fourteen seventy eight levels or even, yeah, fourteen seventy nine upwards, OK ?”*.

Later, Mr. Aloysius says that, Perpetual Treasuries Ltd should place further Bids at Yield Rates above 14.50 but that, there should a Bid for a high value at a high Yield Rate placed by Pan Asia Banking Corporation PLC on behalf of Perpetual Treasuries Ltd. In this connection, Mr. Aloysius says, *“Fourteen fifty or fourteen ninety you call, that again your call, ten billion”* and *“But one shot either a five or a ten should be at a higher rate from PABC”*. Later on, Mr Aloysius fine tunes his instructions and says, *“... then we do five billion under PABC and five billion under Perpetual at maybe ten basis points lower across the range.”*.

We note that, Perpetual Treasuries Ltd placed Bids for a further aggregate sum of Rs. 5 billion for Treasury Bonds bearing ISIN LKB01530E152 at Yield Rates ranging from 14.6502 to 14.6799 and, thereafter, a Bid for Rs. 5 billion at a Yield Rate of 14.7996 was placed by Pan Asia Banking Corporation PLC on behalf of Perpetual Treasuries Ltd. That Yield Rate of 14.7996 was the highest Yield Rate at which Perpetual Treasuries Ltd placed Bids at this Auction. All these bids were in line with the instructions given by Mr. Aloysius.

Further, Mr. Aloysius has stated that, Perpetual Treasuries Ltd should ensure that, the Bids placed at the Auction of Treasury Bonds bearing ISIN LKB01025C157 at Yield Rates include Bids for an aggregate sum of Rs. 5 billion between the Yield Rates of 13.50 and 14.50. Table 1 shows that, in fact, Perpetual Treasuries Ltd placed Bids for

an aggregate sum of Rs.5. 4 billion within this range of Yield Rates. That was also in line with the instructions given by Mr. Aloysius.

Thereafter, Mr. Aloysius has stated that, Perpetual Treasuries Ltd should place Bids for a sum of Rs. 3 billion at the Auction of Treasury Bonds bearing ISIN LKB01226F014 at Yield Rates between 14.65 and 14.70, but left the final decision with regard to the structuring of these Bids in the hands of Mr. Palisena. In this connection, Mr. Aloysius states, *“So, one shot, two thousand and twenty six, one shot, three billion at fourteen sixty five or fourteen seventy, you decide, OK ?”* Table 1 shows that, in fact, Perpetual Treasuries Ltd placed Bids for an aggregate sum of Rs.4.5 billion within this range of Yield Rates. That was also in line with the instructions given by Mr. Aloysius.

Mr. Aloysius also tells Mr. Palisena to use his discretion within the guidelines stated by Mr. Aloysius and to vary, by up to 10 basis points, the Yield Rates stated by Mr. Aloysius, if Mr. Palisena thinks that is advisable. In this connection, Mr. Aloysius states, *“Ten basis points here and there I leave it to you.”*

We note several other instances where the Bids placed by or on behalf of Perpetual Treasuries Ltd at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 were demonstrably in line with the instructions given by Mr. Aloysius. We do not think it is necessary to set out each of these instances.

To sum up, a comparison of the Bids submitted by or on behalf of Perpetual Treasuries Ltd at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 [as set out in Table 1 and Table 2 above] with the instructions given by Mr. Aloysius to Mr. Palisena during the aforesaid telephone conversations on 29<sup>th</sup> March 2016 demonstrates that, Perpetual Treasuries Ltd placed Bids at these Auctions in accordance with the instructions given by Mr. Aloysius.

Next, we also note that, Mr. Aloysius tells Mr. Palisena during those telephone conversations that he will give Mr. Palisena the exact “Cut Off Rate” the CBSL will apply to when accepting Bids in the Auction of Treasury Bonds bearing ISIN LKB01530E152.

In this connection, Mr. Aloysius refers to the Auction of Treasury Bonds bearing ISIN LKB01530E152 and states, *“OK ? We have three scenarios here. One, two, three. First scenario we bill (bid) fifteen on the thirty [ISIN LKB01530E152, which matures in 2030]. Fifteen. At the best rate, **we’ve already got a clearance on the cut off on that.**”* [emphasis added]



Later on Mr. Aloysius says, *“Right, The rate. The all important rate. Shall we start with the fifteens ?”*. [He is again referring to Treasury Bonds bearing ISIN LKB01530E152 which matures in 2030 - ie: in approximately 15 years] and then states, *“I’ll give you the exact rate. My, I’ll They’re bringing the rate down. I wrote it and kept it at home. I’ll tell you in a few minutes. But, on average, but that rate is 14.80 or 14.90 if you put a magical ten billion one shot.”* He goes on to say that, Perpetual Treasuries Ltd’s Bid should be placed through Pan Asia Banking Corporation PLC at 14.80 or 14.90.

We note that, at this Auction of Treasury Bonds bearing ISIN LKB01530E152, the “Cut Off Rate” which CBSL, in fact, applied when accepting Bids was a Yield Rate [Net of Tax] of 14.7996 which was applied to the last Bid accepted at that Auction.

We also note that, that last Bid which was accepted at this Auction at the said “Cut Off Rate” of 14.7996 was the aforesaid Bid for Rs. 5 billion placed by Pan Asia Banking Corporation PLC on behalf of Perpetual Treasuries Ltd.

It hardly needs to be pointed out that, this “Cut Off Rate” of 14.7996 is almost the same as the “exact rate” at which Mr. Aloysius said he had been informed the CBSL would accept Bids at this Auction.

In this connection we also note that, during the aforesaid telephone conversations, Mr. Aloysius tells Mr. Palisena that, in the case of the Auctions of Treasury Bonds bearing ISIN LKB01025C157 and ISIN LKB01226F014, all Bids up to about 14.50 will be accepted but that, in the case of the Auction of Treasury Bonds bearing ISIN LKB01530E152, there is “special approval” for a higher “Cut Off Rate”. In this connection, Mr. Aloysius states, *“Thirteen half to fourteen everything will be accepted, but apart from the fifteen year [ie: ISIN LKB01530E152] that we have got special approval. But apart from that there may be a risk. OK ?”*. [emphasis added].

Mr. Aloysius first says that, Perpetual Treasuries Ltd [either directly or through Pan Asia Banking Corporation] should place Bids at the Auction of Treasury Bonds bearing ISIN LKB01025C157 at Yield Rates which are in the region between 14.77 and 14.78 and then goes on to say, that Bids should also be placed at Yield Rates which are above 14.79. In this connection, Mr. Aloysius states, *“You do a mix and match. Fourteen seventy seven or fourteen seventy eight levels or even , yeah, fourteen seventy nine upwards, OK ?”*.

We are of the view that, the aforesaid evidence persuasively suggests that, by the morning of 29<sup>th</sup> March 2016, Mr. Aloysius had “inside information” [or “price sensitive information”] from a person or persons in the CBSL that, a “Cut Off Rate” of about

14.80 would be applied when accepting Bids at the Auction of Treasury Bonds bearing ISIN LKB01530E152.

It is evident to us, that Perpetual Treasuries Ltd used this “inside information” to benefit substantially by having its Bids at high Yield Rates, accepted at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016.

We are of the view that, since we have determined that, the evidence establishes that, Perpetual Treasuries Ltd used the aforesaid “inside information” [or “price sensitive information”] to benefit substantially by having its Bids at high Yield Rates, accepted at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016, the extent to which Perpetual Treasuries Ltd benefitted from the aforesaid “inside information” [or “price sensitive information”] should be estimated and be recovered from Perpetual Treasuries Ltd .

We will consider this issue in Section 19.5.11 of this Chapter.

**Thirdly**, we turn to the meeting held at the Ministry of Finance on 29<sup>th</sup> March 2016. As set out above, the evidence establishes that, at this meeting, the then Minister of Finance directed the Peoples’ Bank, the National Savings Bank and the Bank of Ceylon to place Bids at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016 within following specified Yield Rates:

- |       |  |   |                 |
|-------|--|---|-----------------|
| (i)   | Treasury Bonds bearing ISIN LKB00520E014 | - | 12.50 to 13.00; |
| (ii)  | Treasury Bonds bearing ISIN LKB01025C157 | - | 12.75 to 13.20; |
| (iii) | Treasury Bonds bearing ISIN LKB01226F014 | - | 12.80 to 13.45; |
| (iv)  | Treasury Bonds bearing ISIN LKB01530E152 | - | 12.90 to 13.60. |

Further, as set out above, Mr. Wasantha Kumar testified that, the Peoples’ Bank to place Bids for a value of Rs. 8 billion at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016; National Savings Bank agreed to place Bids for a value of Rs. 12 billion at the same Auction; and Bank of Ceylon agreed to place Bids for a value of Rs. 4 or 5 billion at this Auction. [It should be mentioned that, the Primary Dealer arm of National Savings Bank is named NSB Fund Management Company Ltd and all references to National Saving Bank in this Section refer to Bids placed by NSB Fund Management Company Ltd]

The evidence establishes that, three State Banks placed Bids at this Treasury Bond Auction in the following manner:

- (i) In the case of Treasury Bonds bearing ISIN LKB00520E014:
  - (a) National Savings Bank placed Bids aggregating to Rs. 3.550 billion at Yield Rates ranging from 12.5000 to 12.9996, all of which were accepted;
  - (b) People's Bank placed Bids aggregating to Rs. 5 billion at Yield Rates 12.5000 to 12.9996, all of which were accepted;
  - (c) Bank of Ceylon placed Bids aggregating to Rs. 1 billion at Yield Rates ranging from 12.5009 to 13.005, all of which were accepted.
  
- (ii) In the case of Treasury Bonds bearing ISIN LKB01025C157:
  - (a) National Saving Bank placed Bids to the value of Rs. 4 billion at Yield Rates ranging from 12.7503 to 13.2003, all of which were accepted;
  - (b) People's Bank placed Bids to the value of Rs. 4.070 Billion at Yield Rates ranging from 12.7503 to 16.5560 of which Bids to the value of Rs. 3.850 were accepted;
  - (c) Bank of Ceylon placed Bids aggregating to Rs. 1.550 billion at Yield Rates ranging from 12.7530 to 14.5080, all of which were accepted.
  
- (iii) In the case of Treasury Bonds bearing ISIN LKB01226F014:
  - (a) National Saving Bank placed bids to the value of Rs. 3.5 billion at Yield Rates ranging from 12.9996 to 13.4496, all of which were accepted;
  - (b) People's Bank placed bids to the value of Rs. 3 billion at Yield Rates ranging from 12.9996 to 14.3001, all of which were accepted;

- (c) Bank of Ceylon placed bids to the value of Rs. 1 billion, at Yield Rates ranging from 13.0050 to 13.4550, all of which were accepted.
- (iv) In the case of Treasury Bonds bearing ISIN LKB01530E152:
  - (a) National Saving Bank placed Bids to the value of Rs. 1.03 billion at Yield Rates ranging from 13.1499 to 14.4999, all of which were accepted;
  - (b) People's Bank placed Bids to the value of Rs. 1.5 billion at Yield Rates ranging from 12.9177 to 15.4998, of which Rs. 1.2 billion was accepted;
  - (c) Bank of Ceylon placed Bids to the value of Rs. 1 billion at Yield Rates ranging from 13.5000 to 13.6080, all of which were accepted.

The evidence also shows that, the Peoples' Bank, as agreed, placed Bids to an aggregate value of Rs. 8.13 billion within the range of Yield Rates prescribed at the Meeting held on 28<sup>th</sup> March 2016; the National Savings Bank, as agreed, placed Bids to an aggregate value of Rs. 12.08 billion within the range of Yield Rates prescribed at the Meeting held on 28<sup>th</sup> March 2016; and Bank of Ceylon placed only Bids to an aggregate value of Rs. 1.6 within the range of Yield Rates prescribed at the Meeting held on 28<sup>th</sup> March 2016.

It should be mentioned that, especially, in the case of Peoples' Bank, there are some Bids which have been placed at Yield Rates which are much higher than those prescribed by the then Minister of Finance. However, those Bids are in relatively small amounts and many of these Bids are likely to have been Bids placed on behalf of customers at Yield Rates indicated by such customers.

In any event, it is evident that, the bulk of the Bids placed by the Peoples' Bank and the National Savings Bank have been within the Yield Rates prescribed by the then Minister of Finance.

However, it is seen that, in the case of the Treasury Bond Auctions held for ISIN LKB01025C157, ISIN LKB01226F014 and ISIN LKB01530E152, the Yield Rates prescribed by the then Minister of Finance are lower than the Weighted Average Yield Rates of the Bids which were accepted at these Auctions – *ie*: as set out above: (i) The Weighted Average Yield Rates [Next of Tax] at the Treasury Bond Auction held for ISIN LKB01025C157 was 13.80; (ii) The Weighted Average Yield Rates [Next of Tax] at

the Treasury Bond Auction held for ISIN LKB01226F014 was 13.93; and (iii) The Weighted Average Yield Rates [Next of Tax] at the Treasury Bond Auction held for ISIN LKB01530E152 was 14.23.

We would reasonably expect that, since the then Minister of Finance had instructed the National Savings Bank, Peoples' Bank and Bank of Ceylon to place Bids at these Yield Rates, which were considerably lower than the Yield Rates which the Market expected to obtain at these Auctions, these three State Banks are likely to have faced a degree of restriction when they placed at the Treasury Bond Auction held on 29<sup>th</sup> March 2016 since Bids at these specified Yield Rates, which would, almost inevitably, be accepted, will not represent the most profitable investments possible in the prevailing Market. The witnesses from the National Savings Bank, Peoples' Bank and Bank of Ceylon who gave evidence before us confirmed that, these three State Banks were of that view.

This approach is evidenced by the fact that, especially in the case of the Treasury Bonds bearing ISIN LKB01226F014 and ISIN LKB01530E152 which had the longer Tenors, National Savings Bank and Peoples' Bank and Bank of Ceylon have placed Bids for the relatively small amounts at the Treasury Bond Auction held on 29<sup>th</sup> March 2016 even though Rs. 10 billion had been offered on both Treasury Bonds and it could be reasonably expected that, in view of the large amount of funds that had to be raised on 01<sup>st</sup> April 2016, the CBSL was likely to accept Bids for considerably larger amounts than the amounts offered.

As a result of the restricted Bids placed by National Savings Bank, Peoples' Bank and Bank of Ceylon at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016, the other Primary Dealers obtained a significantly increased opportunity to have their Bids accepted at this Auction.

As set out above, Perpetual Treasuries Ltd has made good use of this increased opportunity and had: (i) Bids to the value of Rs. 8.450 billion accepted at the Auction of Treasury Bonds bearing ISIN LKB01025C157; (ii) Bids to the value of Rs. 7.600 billion accepted at the Auction of Treasury Bonds bearing ISIN LKB01226F014; and (iii) Bids to an aggregate value of Rs. 15.310 billion [including the Bid for Rs.5 billion placed by Pan Asia Banking Corporation PLC] accepted at the Auction of Treasury Bonds bearing ISIN LKB01226F014;

As set out above, these Bids placed by and on behalf of Perpetual Treasuries Ltd, were placed at high Yield Rates.

Thus, in the case of the Treasury Bonds bearing ISIN LKB01025C157, the Bids placed by Perpetual Treasuries Ltd [which were accepted] were at Yield Rates ranging from 13.500 to 14.6996. It is seen that Rs. 7.850 billion of these Bids have been at Yield Rates higher than 14.00, of which, Rs. 4.2 billion have been Bids at Yield Rates higher than 14.5000.

In the case of Treasury Bonds bearing ISIN LKB01226F014, the Bids amounting to Rs. 7.6 billion placed by Perpetual Treasuries Ltd [all of which were accepted] were at Yield Rates ranging from 13.6998 to 14.6996. It is seen that, that Rs. 7.7000 billion of these Bids have been at Yield Rates above 14.0000, of which Rs. 5.550 billion have been Bids at Yield Rates of 14.500 and above.

In the case of Treasury Bonds bearing ISIN LKB01530E152, the Bids amounting to Rs.10.310 billion placed by Perpetual Treasuries Ltd [all of which were accepted] were at Yield Rates ranging from 13.5000 to 14.6799. It is seen that, that Rs. 9.510 billion of these Bids have been at Yield Rates above 14.00, of which Rs. 5.0 billion have been Bids at Yield Rates of 14.5 and higher. In addition, as mentioned earlier, a Bid for Rs. 5.0 billion placed by Pan Asia Banking Corporation PLC on behalf of Perpetual Treasuries Ltd at 14.7996 was accepted.

Thus, we observe that:

- (i) In the case of the Auction of Treasury Bonds bearing ISIN LKB01025C157 held on 29<sup>th</sup> March 2016, Perpetual Treasuries Ltd obtained 39% of the amount of Treasury Bonds issued at that Auction, in comparison to People's Bank obtaining 18%, National Savings Bank obtaining 19% and Bank of Ceylon obtaining 7% respectively, of the amount of Treasury Bonds issued at that Auction;
- (ii) In the case of the Auction of Treasury Bonds bearing ISIN LKB01226F014 held on 29<sup>th</sup> March 2016, Perpetual Treasuries Ltd obtained 45% of the amount of Treasury Bonds issued at that Auction, in comparison to People's Bank obtaining 18%, National Savings Bank obtaining 21% and Bank of Ceylon obtaining 6% respectively, of the amount of Treasury Bonds issued at that Auction;
- (iii) In the case of the Auction of Treasury Bonds bearing ISIN LKB01530E152 held on 29<sup>th</sup> March 2016, Perpetual Treasuries Ltd [with the Bid placed by Pan Asia Banking Corporation PLC on behalf of Perpetual Treasuries Ltd] obtained 55% of the amount of Treasury Bonds issued at that Auction, in comparison to People's Bank obtaining 4%,



National Savings Bank obtaining 4% and Bank of Ceylon obtaining 3% respectively, of the amount of Treasury Bonds issued at that Auction.

We note that, the aforesaid telephone conversations between Mr. Aloysius and Mr. Palisena on 29<sup>th</sup> March 2017 establish that, Mr. Aloysius had “inside information” [or “price sensitive information”] that, the National Savings Bank, the Bank of Ceylon and the Peoples’ Bank would be placing restricted Bids at the Treasury Bond Auctions to be held later that day. In this connection, we note Mr. Aloysius’s statements that, *“Hi. So, yesterday, there was a meeting that was called.”* and *“With all the State Banks, an instruction had gone that the state banks bid low.”* and *“OK ? So, I found from our friend that (at) NSB and other friend at BOC. And, they haven’t given a specification of what rate to them, but they want to bid low.”* and *“Right. Now, basically the go ahead is that the government has said that they’re going to state funds, will bid between maybe thirteen half, and the private funds can go from thirteen fifty to fourteen guaranteed.”* and *“I just got a an SMS from NSB, that they have , they are bidding eight billion in total...”*

It is evident to us, that Perpetual Treasuries Ltd used this “inside information” [or “price sensitive information”] that the State Banks would be placing restricted Bids and benefited substantially from the increased opportunity to have its Bids at high Yield Rates, accepted at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016.

We are of the view that, since we have determined that, the evidence establishes that, Perpetual Treasuries Ltd used the aforesaid “inside information” [or “price sensitive information”] to benefit substantially from the increased opportunity to have its Bids at high Yield Rates, accepted at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016, the extent to which Perpetual Treasuries Ltd benefitted from the aforesaid “inside information” [or “price sensitive information”] should be estimated and be recovered from Perpetual Treasuries Ltd .

We will consider this issue in Section 19.5.11 of this Chapter.

**Fourthly**, we note that, although Treasury Bonds to a value of Rs. 10 billion were offered on each ISIN at the Auctions held on 29<sup>th</sup> March 2016 and although the evidence of Ms. D.L. Rohini establishes that, the EPF had adequate surplus funds available on 01<sup>st</sup> April 2016 to place Bids substantial amounts at this Auction, EPF has placed Bids for very small sums at this Auction.

Thus: (i) in the case of Auction of the Treasury Bonds bearing ISIN LKB00520E014, the EPF did not place a single Bid; (ii) in the case of the Auction of Treasury Bonds bearing ISIN LKB01025C157, the EPF placed Bids for only a total value of Rs. 1 billion;



(iii) in the case of the Auction of Treasury Bonds bearing ISIN LKB01226F014, the EPF placed Bids for only a total value of Rs. 500 million; (iii) in the case of the Auction of Treasury Bonds bearing ISIN LKB01530E152, the EPF placed Bids for only a total value of Rs. 1 billion.

We consider it very unusual if not inexplicable that, EPF did not place Bids for larger values at this Auction when the EPF had funds to do so and the Market expected to obtain profitable Yield Rates at this Auction.

We note the evidence establishes that, there were close links between Perpetual Treasuries Ltd and Mr. Indika Saman Kumara, who headed the Front Office of the EPF in March in March 2016.

In these circumstances, we consider that, a strong suspicion arises as to whether Perpetual Treasuries Ltd and Mr. Indika Saman Kumara and other officers at the EPF acted in collusion and ensured that, EPF placed Bids for low values at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 so as to help “clear the field” for Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds at high Yield Rates.

Upon the aforesaid evidence and in the aforesaid circumstances, we hold that:

- (i) We do not see any *ex facie* irregularity in the decision-making process which led to the CBSL accepting Treasury Bonds with an aggregate value of Rs. 77.732 billion at the Treasury Bonds Auction held on 29<sup>th</sup> March 2016.
- (ii) Mr. Arjun Aloysius issued detailed instructions to Perpetual Treasuries Ltd with regard to the manner in which Perpetual Treasuries Ltd should place Bids at the on the laced Bids at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016;
- (iii) Mr. Arjun Aloysius had “inside information” [or “price sensitive information”] provided to him by a person or persons within the CBSL as to the likely “Cut Off Rates” up to which the CBSL would accept Bids at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016;
- (iv) Mr. Arjun Aloysius had “inside information” [or “price sensitive information”] provided to him by a person or persons at the National Savings Bank and/or Bank of Ceylon or elsewhere that, the State Banks had been instructed to place Bids at low Yield Rates and were, therefore, likely place restricted Bids at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016;

- (v) Perpetual Treasuries Ltd used this “inside information” [or “price sensitive information”] to help Perpetual Treasuries Ltd obtain a high value of Treasury Bonds bearing ISIN LKB01025C157, ISIN LKB01226F014 and ISIN LKB01530E152, at high Yield Rates at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016;
- (vi) The extent to which Perpetual Treasuries Ltd benefitted from the aforesaid “inside information” [or “price sensitive information”] should be estimated and be recovered from Perpetual Treasuries Ltd and its beneficial Owners;
- (vii) There are grounds to suspect that, the EPF placed Bids for very low values at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016, in order to help Perpetual Treasuries Ltd obtain a high value of Treasury Bonds at high Yield. In this connection, we intend to recommend that, this matter be investigated.

**Section 19.5.7 - The meeting at the Ministry of Finance on 30<sup>th</sup> March 2016**

The following senior officers of the People’s Bank, the Bank of Ceylon, and the National Savings Bank testified that the Ministry of Finance had requested them to attend a second meeting held, on 30<sup>th</sup> March 2016, at the Ministry of Finance. They said that, this meeting had been convened by Hon. Ravi Karunanayake, MP, the then Minister of Finance.

People’s Bank

Mr. Hemasiri Fernando- Chairman.  
Mr. Wasantha Kumar- General Manager.  
Mr. Clive Fonseka - Head of Treasury.

Bank of Ceylon

Mr. S. Jayasooriya - Deputy General Manager.

National Savings Bank

Mr. Aswin de Silva- Chairman.  
Mr. P.A. Lionel - Consultant.

The evidence of these officers is to the effect that, they all attended this Meeting which was chaired by Mr. Ravi Karunanayake. Mr. R. Paskaralingam has also been present. Some other officials had been present.

The Hon. Prime Minister has stated, in his evidence that, he was unaware of this meeting either and that he was unaware that, Mr. Paskaralingam had attended such a meeting.

As in the earlier instance, we consider that, Mr. Wasantha Kumar, the General Manager of People's Bank, was a reliable witness with a clear recollection of the events of this meeting held on 28<sup>th</sup> March 2016.

Here too, we consider that, for the purposes of this Section of our Report, an analysis of Mr. Wasantha Kumar's evidence will be more than adequate for the Commission of Inquiry to assess the events which transpired at this meeting.

The evidence of the other witnesses who attended this meeting has been recounted earlier in Chapter 5.

By his Affidavit affirmed marked "**C284**", Mr. Wasantha Kumar testified with regard to the events of the meeting held on 30<sup>th</sup> March 2016 at the Ministry of Finance, as follows:

- “28. On 30.03.2016, the Chairman of the People's Bank, Mr. Hemasiri Fernando once again requested me to accompany him to a meeting called by Hon. Mr. Ravi Karunanayake, the then Minister of Finance, with the State Banks.*
- 29. I accompanied the Chairman to the said meeting, held at the office of the Minister of Finance that evening, along with Mr. Clive Fonseka, the Head of Treasury of the People's Bank.*
- 30. Representatives of the National Savings Bank and the Bank of Ceylon were also present at the meeting. To the best of my recollection, the Bank of Ceylon was represented by Mr. S. Jayasooriya. The National Savings Bank was represented by its Chairman, Mr. Ashwin de Silva and Mr. P.A. Lionel.*
- 31. The meeting was chaired by the Hon. Minister of Finance. I believe that officials of the Treasury and the Central Bank were also present but I cannot recall the identity of the officials. Mr. Paskaralingam, the Senior Advisor to the Honorable Prime Minister was present.*
- 32. At the said meeting, the Hon. Minister requested the State Banks to bid at low yield rates at the auction scheduled to be held on 31<sup>st</sup> March 2016.*
- 33. As the Treasury is the sole shareholder of the People's Bank, generally the instruction of the Treasury and Ministry of Finance are adhered to by the*

People's Bank as far as possible. However, on this occasion, I was reluctant to agree to this request as the cut off rate at the 29<sup>th</sup> March auction had been much higher than the rates prescribed to the State Banks.

34. Consequently, I voiced my concern at the meeting about bids at higher yield rates being accepted at the previous auction and sought an assurance that this would not be repeated.
35. The Hon Minister agreed that bids at higher yield rates would not be accepted at the 31<sup>st</sup> of March 2016 auction and prescribed the following rates in respect of the bids to be placed at the said auction:

Series	Maturity	Yield net of tax
8.50% 2018 A	1 <sup>st</sup> February 2018	11.75% p.a.
10.60% 2019 A	1 <sup>st</sup> July 2019	11.75% p.a.
11.00% 2021 A	1 <sup>st</sup> August 2021	11.99% p.a.
11.50% 2028 A	1 <sup>st</sup> September 2028	13.33% p.a.

36. Further, the three State Banks were specifically instructed to bid a total value of LKR 7,500 million each.
37. As I perceived the attempt to bring down the interest rate to be in the national interest, and as I was expressly assured that bids at higher yield rates would not be accepted, I agreed to carry out the aforesaid instructions.
38. Thereupon, the Chairman and I instructed our Head of Treasury who was present at the meeting to place bids to the value of LKR 7,500 million at the 31<sup>st</sup> March 2016 Treasury Bonds Auction, at the rates prescribed by the Hon. Minister.
39. Accordingly, the People's Bank placed its own bids at the rates prescribed.
40. The People's Bank Client's bids could not be submitted at the same rates as the rates were advised to the bank directly by the client.

(The bid sheet for the 31<sup>st</sup> March 2016 auction is annexed hereto marked C)

41. *When the auction results were announced, it was revealed that, contrary to the undertaking given, bids at higher yield rates had been accepted by the Central Bank.*
42. *In fact, I had sent a text message to Mr. Paskaralingam on mobile phone (number 0773346600) stating the following: 'Sir, ETF and Funds managed by the CBSL have submitted their bids for the bond auction at much higher rates than what we agreed yesterday.' I was aware of these bids as these bids had been placed through the People's Bank.*
43. *I was aware at all times that the bidding instruction given at the aforesaid meetings were price sensitive and confidential. As such, I did not divulge this information to any person other than relevant officials of the People's Bank Treasury Department."*

In reply to questions asked from him by learned Senior State Counsel, Mr. Wasantha Kumar said that, Hon. Ravi Karunanayake, the then Minister of Finance had assured the three State Banks that, Bids at Yield Rates higher than the Yield Rates specified to the three State Banks, would not be accepted at the Treasury Bond Auction to be held on 30<sup>th</sup> March 2016.

There is no evidence before us which suggests that, any officer of the CBSL was present at this meeting held on 30<sup>th</sup> March 2016, at the Ministry of Finance.

There is also no evidence before us which suggests that, Hon. Ravi Karunanayake, MP, the then Minister of Finance or any other officer of the Ministry of Finance advised or communicated to the PDD or the CBSL the fact that, the three State Banks had been instructed to bid at specified Yield Rates at the Treasury Bond Auction to be held on 31<sup>st</sup> March 2016 and been given an assurance that, Bids at higher Yield Rates would not be accepted at this Auction.

In this connection, we think that, if this information had been "officially" communicated to the PDD or CBSL, at least one or more of the many officers of the PDD and the CBSL who gave evidence before us would have testified to that fact. We also note that, although Hon. Ravi Karunanayake, MP was advised of the day on which the evidence of the several witnesses from the three State Banks would be led, neither he nor his Counsel appeared before us on that day.

Mr. Wasantha Kumar said that, in this instance too, as a result of the bidding at low Yield Rates and obtaining Treasury Bonds at those low Yield Rates at the Treasury Bond Auction held on 30<sup>th</sup> March 2016 when other Primary Dealers had obtained

Treasury Bonds at higher Yield Rates at the same Auction, the Peoples' Bank missed an opportunity to obtain Treasury Bonds at higher Yield Rates at this Auction and, thereby, there had been an "*opportunity loss*" or a "*notional loss*".

Upon the aforesaid evidence and in the aforesaid circumstances, we are of the view that:

- (i) In view of the undesirably high Yield Rates which then prevailed, it was reasonable and justifiable for the Ministry of Finance to wish to bring these Yield Rates down at the Treasury Bond Auction to be held on 30<sup>th</sup> March 2016.

In this background and in view of the fact that, successive Governments have been known to use the state owned Peoples' Bank, National Savings Bank and Bank of Ceylon to implement some policy measures and it is not *per se* irregular for a Government to do so, we cannot find fault with Hon. Ravi Karunanayake, MP, the then Minister of Finance or the Ministry of Finance, for having convened the meeting on 30<sup>th</sup> March 2016 and given instructions to the three State Banks to bid within a specified range of Yield Rates at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016;

- (ii) The evidence before us does not suggest that, Dr. Samaratunga, Secretary to the Ministry of Finance, was present at the meeting held on 30<sup>th</sup> March 2016 at the Ministry of Finance;
- (iii) At this meeting, the then Minister of Finance has given an assurance to the three State Banks that only Bids within the specified range of Yield Rates will be accepted at the Treasury Bond Auction to be held on 30<sup>th</sup> March 2016;
- (iv) The evidence before us does not prove that, any officer of the CBSL was present at the meeting held on 30<sup>th</sup> March 2016 at the Ministry of Finance;
- (v) There is no evidence that, Hon. Ravi Karunanayake, MP, the then Minister of Finance or any other officer of the Ministry of Finance advised the CBSL that this assurance had been given or took any steps to ensure that, the assurance they gave to the three State Banks would be honoured by the CBSL;
- (vi) The acceptance of Bids at the aforesaid Auction at higher Yield Rates than the Yield Rates at which the three State Banks had placed their Bids,

did not result in these three State Banks incurring an actual or real loss but did, cause an “*opportunity loss*” or a “*notional loss*” to the three State Banks;

**Section 19.5.8 - The Treasury Bond Auction held on 31<sup>st</sup> March 2016**

Since, as stated earlier, only 56% of the Rs. 105 billion required on 01<sup>st</sup> April 2016 had been raised at the Treasury Bond Auction held on 29<sup>th</sup> March 2016, the CBSL had to attempt to raise the balance amount at the Treasury Bond Auction to be held on 31<sup>st</sup> March 2016.

At this Auction held on 31<sup>st</sup> March 2016, the CBSL offered Rs. 5 billion for sale on each of the following 4 Treasury Bonds:

- (i) LKB01518B013 with a Tenor of 01 Year and 10 Months;
- (ii) LKB00619G019 with a Tenor of 03 Years and 03 Months;
- (iii) LKB00821H019 with a Tenor of 05 Years and 04 Months;
- (iv) LKB011528I017 with a Tenor of 12 Years and 05 Months.

Thus, Treasury Bonds to an aggregate value of Rs. 25 billion were offered for sale at this Auction.

When the Auction closed on 31<sup>st</sup> March 2016, it was found that, as set out below, in this case too, a high value of Bids had been received:

- (i) LKB01518B013 - 64 Bids to the aggregate value of Rs. 21.254 billion.
- (ii) LKB00619G019 - 65 Bids to the aggregate value of Rs. 15.025 billion.
- (iii) LKB00821H019 - 95 Bids to the aggregate value of Rs. 24.175 billion
- (iv) LKB011528I017- 193 Bids to the aggregate value of Rs.52.605 billion.

The range of the Yield Rates [Net of Tax] at which these Bids were placed, are set out below:

- (i) LKB01518B013 - 11.7504 to 17.4996
- (ii) LKB00619G019 - 11.7504 to 18.0000
- (iii) LKB00821H019 - 11.9897 to 19.9998
- (iv) LKB011528I017 - 13.3299 to 21.9996

Since it is likely that, the Bids at the higher end of the range are more speculative in nature and may not reflect the actual perception in the Market with regard to what the realistic Yield Rates were, we have identified the highest Yield Rates in the 50<sup>th</sup>



percentile of the Bids [by number of Bids] and in the 75<sup>th</sup> percentile of the Bids [by number of Bids]. These details are set out below:

- |       |               |   |  |
|-------|---------------|---|--|
| (i)   | LKB01518B013  | - | 12. 7503 [50 <sup>th</sup> percentile]<br>13. 5999 [75 <sup>th</sup> percentile] |
| (ii)  | LKB00619G019  | - | 12. 9996 [50 <sup>th</sup> percentile]<br>14. 0004 [75 <sup>th</sup> percentile] |
| (iii) | LKB00821H019  | - | 13. 4001 [50 <sup>th</sup> percentile]<br>13. 7502 [75 <sup>th</sup> percentile] |
| (iv)  | LKB011528I017 | - | 14. 400 [ 50 <sup>th</sup> percentile]<br>14. 7996 [75 <sup>th</sup> percentile] |

As set out in the Option Sheets prepared by the PDD, the PDD recommended that Bids to the following values, be accepted:

- |       |               |   |   |
|-------|---------------|---|---|
| (i)   | LKB01518B013  | - | The PDD recommended that, Bids to the value of Rs. 9.000 billion be accepted at a Weighted Average Yield Rate [Net of Tax] of 11.75.  |
| (ii)  | LKB00619G019  | - | The PDD recommended that, Bids to the value of Rs. 5.000 billion be accepted at a Weighted Average Yield Rate [Net of Tax] of 11.75.  |
| (iii) | LKB00821H019  | - | The PDD recommended that, Bids to the value of Rs. 14.350 billion be accepted at a Weighted Average Yield Rate [Net of Tax] of 13.00. |
| (iv)  | LKB011528I017 | - | The PDD recommended that, Bids to the value of Rs. 21.660 billion be accepted at a Weighted Average Yield Rate [Net of Tax] of 13.72. |

As set out in the Minutes of the meeting of the Tender Board held on 31<sup>st</sup> March 2016, the Tender Board made the following observations.

“ **The Tender Board made the following observations:**

- a. *Today’s auction was to raise balance funds (Rs. 45 bn) for the coupon payment of Treasury Bonds, foreign interest and capital payments amounting to Rs. 105 bn on 01.04.2016.*
- b. *The bid pattern shows somewhat favourable deceleration in increase in yield rates while giving favourable options to raise the balance funding requirement.*
- c. *As per the department recommendation on 3 year 3 months based on the funding requirement, there is a significant increase in cut off yield rates by 100 bps to raise Rs. 2.9 bn compared with initial bids. Accordingly, this increase in cut off seem to be excessive.*

**Decision**

*Accordingly, the Tender Board decided to accept the departmental funding requirement based recommendations except for 3 year 3 months due to the concern raised in 4C above as follows.”*

<b>Series</b>	<b>8.50% 2018 ‘A’</b>	<b>10.60% 2019 ‘A’</b>	<b>11.00% 2021 ‘A’</b>	<b>11.50% 2028A</b>
Period to maturity	01 year 10 months	03 years 03 months	05 years 04 months	12 years 05 months
Amount Accepted (Rs. mn)	9,000	5,000	14,350	21,660
Weighted Average Yield Rate (WAYR) %	<b>11.75</b>	<b>11.75</b>	<b>13.00</b>	<b>13.72</b>

Secondary Market Yield Rates for similar Maturity%	12.00	12.60	13.10	13.85
WAYR of Last Corresponding Auction %	10.00 (March 2016)	8.18 (July 2015)	11.42 (March 2016)	12.09 (May 2013)
<b>Change in WAYR from Last Corresponding Auction (bps)</b>	<b>175</b>	<b>357</b>	<b>158</b>	<b>163</b>
Change in WAYR from Current Secondary Market Yield Rates (bps)	-25	-85	-10	-13

Here too, Mr. Mahendran has approved the aforesaid decision of the Tender Board by signing the Minutes of the meeting of the Tender Board held on 31<sup>st</sup> March 2016 under the words “*Approval of the Governor*”. We assume he did do, though on leave, for the reasons set out earlier, in Section 19.5.3.

In any event, it is evident that, the Tender Board accepted all the recommendations made by the PDD and that, Treasury Bonds with a total Face Value of Rs. 50.010 billion [and a total Settlement Value of Rs. 42.766 billion] were accepted at this Auction upon all four ISINs that were offered at the Auction.

Thereby, a further 41 % of the sum of Rs.105 billion which had to be raised on 01<sup>st</sup> April 2016, was obtained at this Auction held on 31<sup>th</sup> March 2016.

**First**, we have to consider whether the PDD and the Tender Board acted irregularly when: (i) the PDD recommended that, Bids for Treasury Bonds with a total Face Value of Rs. 50.01 billion, which included a significant percentage of Bids which were at higher Yield Rates than the Yield Rates specified by the then Minister of Finance at which three State Banks had placed their Bids, be accepted; (ii) the Tender Board decided to accept this recommendation.

In this connection, as stated earlier, we have no evidence before us which establishes that, the Ministry of Finance or any other person informed the PDD or any officers of

the CBSL that, the aforesaid instructions and assurance had been given to the three State Banks, at the meeting held on 30<sup>th</sup> March 2016 at the Ministry of Finance. While it is possible that, the PDD or one or more officers of the CBSL had been told of these instructions by the Ministry of Finance or another person, we cannot proceed on such a basis, in the absence of evidence to that effect.

In these circumstances, we cannot fairly come to a conclusion that, the officers of the PDD or the members of the Tender Board knew of the instructions given to the three State Banks to place Bids within a specified range of Yield Rates at the Treasury Bonds Auction held on 31<sup>st</sup> March 2016 or knew of the assurance given to the three State Banks that, Bids at higher Yield Rates would not be accepted.

In those circumstances, we cannot conclude that, the officers of the PDD and the members of the Tender Board acted irregularly when (i) the PDD recommended that, Bids for Treasury Bonds with a total Face Value of Rs. 50.010 billion, which included a significant percentage of Bids at higher Yield Rates than the specified Yield Rates at which three State Banks had placed their Bids, be accepted; (ii) the Tender Board decided to accept this recommendation.

With regard to Mr. Mahendran, who has approved the decision of the Tender Board to accept Bids for Treasury Bonds with a total Face Value of Rs. 50.010 billion [including a significant percentage of Bids at higher Yield Rates than the Yield Rates which were specified by the then Minister of Finance], we note that, when Mr. Mahendran gave evidence, he denied that he had any knowledge of the meeting held at the Ministry of Finance on 30<sup>th</sup> March 2016 and denied that he knew of any instructions given to the three State Banks at this meeting. He said that, he learnt of these matters only when he read about the evidence led before the Commission of Inquiry with regard to these matters.

We have no evidence before us which establishes that, Mr. Mahendran had been informed, on or before 31<sup>st</sup> March 2016, of the meeting held at the Ministry of Finance on 30<sup>th</sup> March 2016 or of the instructions had been given to the three State Banks at that meeting. While it is possible that, Mr. Mahendran had been told of these instructions, we cannot proceed on such a basis, in the absence of evidence to that effect. We also note that, Mr. Mahendran was on leave from the CBSL at that time and his evidence that, his only involvement with this Auction was the act of approving Minutes of the meeting of the Tender Board, when they were sent to him.

In any event, we think that, in the absence of an “official” communication from the Ministry of Finance to the CBSL that the aforesaid instruction had been given to the three State Banks and an “official” request made by the Ministry of Finance that the

CBSL honours the assurance given to the three State Banks that Bids at higher Yield Rates [i.e. at Yield Rates higher than those specified by the then Minister of Finance] would not be accepted, the CBSL was under no obligation to refrain from accepting Bids at higher Yield Rates if it was necessary to do so to raise the very large sum of Rs. 105 billion required on 01<sup>st</sup> April 2016.

For the aforesaid reasons, we conclude that, there is no evidence before us which establishes that, the PDD or the Tender Board or Mr. Mahendran acted unreasonably or improperly when a decision was taken to accept Bids for Treasury Bonds with a total Face Value of Rs. 50.010 billion [which included a significant percentage of Bids at higher Yield Rates than the specified Yield Rates at which three State Banks had placed their Bids], at the Treasury Bond Auction held on 31<sup>st</sup> March 2016.

Here too, we consider it reiterate here, that this Commission of Inquiry is called upon to ascertain, upon reliable evidence, facts and circumstances relating to the matters falling within our Mandate and, where permitted by law and equity, draw proper conclusions and inferences from facts and circumstances which have been established by reliable evidence. We cannot reach conclusions or draw inferences on mere suspicion, surmise or speculation.

Thereafter, we have to consider whether the recommendations made by the PDD with regard to the Bids to be accepted at the Treasury Bond Auction held on 31<sup>st</sup> March 2016 and the decision of the Tender Board were unreasonable or improper.

We will be mindful, as stated earlier, that, the officers of the CBSL have the specialized knowledge and experience and the authority and discretion to make decisions with regard to the acceptance of Bids at an Auction and that, we should refrain from venturing to make 'technical' judgments and "second guess" decisions taken by these officers unless they are manifestly perverse or are shown to have been made for improper reasons.

With regard to the Treasury Bonds bearing ISIN LKB01518B013, only 4 Bids to the aggregate value of Rs. 9.000 were accepted at a Weighted Average Yield Rate [Net of Tax] of 11.75. All the other 60 Bids were rejected.

The 4 Bids that were accepted were: a Bid for Rs. 3.5 billion placed by the Peoples' Bank, a Bid for Rs. 3.0 billion placed by the National Savings Bank and two Bids for an aggregate amount of 2.5 billion placed by the Bank of Ceylon.

This Weighted Average Yield Rate [Net of Tax] of 11.75 is placed within the 7<sup>th</sup> percentile of the Yield Rates of the Bids placed at the Auction.

This Weighted Average Yield Rate [Net of Tax] of 11.75 is 25 Basis Points less than the prevailing Weighted Average Yield Rate [Net of Tax] of 12.00, for this Treasury Bond, in the Secondary Market.

In these circumstances and in the light of the evidence that, in March 2016, there was upward pressure on the Yield Rates and in view of the funding requirement of Rs. 105 billion on 01<sup>st</sup> April 2016, we see no manifest reason to consider that, the PDD and the Tender Board acted unreasonably or improperly, when it was decided to accept Bids to the value of Rs. 9.000 billion at a Weighted Average Yield Rate [Net of Tax] of 11.75, in respect of the Treasury Bonds bearing ISIN LKB01518B013 at the Treasury Bond Auction held on 31<sup>st</sup> March 2016.

With regard to the Treasury Bonds bearing ISIN LKB00619G019, only 3 Bids to the value of Rs. 5.0 billion at a Weighted Average Yield Rate [Net of Tax] of 11.75 were accepted at this Auction. All the other 65 Bids were rejected.

The 3 Bids that were accepted were: a Bid for Rs. 2.0 billion placed by the Peoples' Bank, a Bid for Rs. 2.5 billion placed by the National Savings Bank and a Bid for 0.5 billion placed by the Bank of Ceylon.

This Weighted Average Yield Rate [Net of Tax] of 11.75 is placed within the 5<sup>th</sup> percentile of the Yield Rates of the Bids placed at the Auction.

This Weighted Average Yield Rate [Net of Tax] of 11.75 is 85 Basis Points less than the prevailing Weighted Average Yield Rate [Net of Tax] of 12.60, for this Treasury Bond, in the Secondary Market.

In these circumstances and in the light of the evidence that, in March 2016, there was upward pressure on the Yield Rates and in view of the funding requirement of Rs. 105 billion on 01<sup>st</sup> April 2016, we see no manifest reason to consider that, the PDD and the Tender Board acted unreasonably or improperly, when it was decided to accept Bids to the value of Rs. 5.0 billion at a Weighted Average Yield Rate [Net of Tax] of 11.75, in respect of the Treasury Bonds bearing LKB00619G019 at the Treasury Bond Auction held on 31<sup>st</sup> March 2016.

With regard to the Treasury Bonds bearing ISIN LKB00821H019, as set out above, 58 Bids to the value of Rs. 14.350 billion at a Weighted Average Yield Rate [Net of Tax] of 13.00 were accepted at this Auction. The other 37 Bids were rejected.

This Weighted Average Yield Rate [Net of Tax] of 13.80 is placed within the 75<sup>th</sup> percentile of the Yield Rates of the Bids placed at the Auction.

This Weighted Average Yield Rate [Net of Tax] of 13.00 is 10 Basis Points less than the prevailing Weighted Average Yield Rate [Net of Tax] of 13.10, for this Treasury Bond, in the Secondary Market.

Here too, in the light of the evidence that, in March 2016, there was upward pressure on the Yield Rates and in view of the funding requirement of Rs. 105 billion on 01<sup>st</sup> April 2016, we see no manifest reason to consider that, the PDD and the Tender Board acted unreasonably or improperly, when it decided to accept Bids to the value of Rs. 14.350 billion at a Weighted Average Yield Rate [Net of Tax] of 13.00, in respect of the Treasury Bonds bearing ISIN LKB00821H019 at the Treasury Bond Auction held on 31<sup>st</sup> March 2016.

With regard to the Treasury Bonds bearing ISIN LKB011528I017, as set out above, only 23 Bids to the value of Rs. 21.660 billion at a Weighted Average Yield Rate [Net of Tax] of 13.72 were accepted at this Auction. The other 170 Bids were rejected.

This Weighted Average Yield Rate [Net of Tax] of 13.72 is placed within the 12<sup>th</sup> percentile of the Yield Rates of the Bids placed at the Auction.

This Weighted Average Yield Rate [Net of Tax] of 13.73 is 13 Basis Points less than the prevailing Weighted Average Yield Rate [Net of Tax] of 13.85, for this Treasury Bond, in the Secondary Market.

Here too, in the light of the evidence that, in March 2016, there was upward pressure on the Yield Rates and in view of the funding requirement of Rs. 105 billion on 01<sup>st</sup> April 2016, we see no manifest reason to consider that, the PDD and the Tender Board acted unreasonably or improperly, when it was decided to accept Bids to the value of Rs. 21.660 billion at a Weighted Average Yield Rate [Net of Tax] of 13.72, in respect of the Treasury Bonds bearing ISIN LKB011528I017 at the Treasury Bond Auction held on 31<sup>st</sup> March 2016.

Finally, we have to consider the issue of whether, instead of accepting Treasury Bonds with an aggregate value of Rs. 50.010 billion at the Treasury Bond Auction held on 31<sup>st</sup> March 2016, the PDD and/or the Tender Board and/or Mr. Mahendran should, instead, have opted to raise part of this sum of Rs.50.010 billion, at lower Yield Rates, by accepting some Direct Placements from one or more “Captive Sources” and/or by raising Sri Lanka Development Bonds and/or at another Auction to be held on another date.



Here too the facts and circumstances considered in Section 19.5.6 above are, *mutatis mutandis*, equally applicable.

Therefore, we are of the view that, there is no manifest reason to consider that, the PDD or the Tender Board or Mr. Mahendran acted unreasonably or improperly when a decision was taken to accept Treasury Bonds with an aggregate value of Rs. 50.010 billion at the Treasury Bond Auction held on 31<sup>st</sup> March 2016 and not exercise an option of raising a part of this sum of Rs. 50.010 billion by accepting some Direct Placements from one or more “Captive Sources” and/or by raising Sri Lanka Development Bonds and/or at another Auction of Treasury Bonds.

In the aforesaid circumstances, we do not see any *ex facie* irregularity in the decision-making process which led to the CBSL accepting Treasury Bonds with an aggregate value of Rs. 50.010 billion at the Treasury Bonds Auction held on 31<sup>st</sup> March 2016.

Next, in view of the determinations we made in Section 19.5.6 above that, Perpetual Treasuries Ltd had used “inside information” [or “price sensitive information”] to benefit at the Treasury Bond Auction held on 29<sup>th</sup> March 2016, we consider it necessary to examine the manner in which Perpetual Treasuries Ltd placed Bids at this Treasury Bonds Auction held on 31<sup>st</sup> March 2016.

We note that, Perpetual Treasuries Ltd placed only the “Minimum Bid” amount of Rs. 0.5 billion at the Auctions of Treasury Bonds bearing ISIN LKB01518B013 and ISIN LKB00619G019 and that, all these Bids were rejected.

We note that, in the case of the Auction of Treasury Bonds bearing ISIN LKB00821H019, Perpetual Treasuries Ltd placed Bids to the aggregate value of Rs.5.125 billion but only Bids to the value of 0.625 billion were accepted. Thus, Perpetual Treasuries Ltd obtained only 4% of the Bids to the aggregate value of Rs. 14.350 billion which were accepted at this Auction.

However, we note that, in the case of the Auction of Treasury Bonds bearing ISIN LKB011528I017, Perpetual Treasuries Ltd met with remarkable success when it placed Bids to the aggregate value of Rs.15.700 billion and had Bids to the value of Rs. 15.0 billion accepted. Thus, Perpetual Treasuries Ltd obtained 69% of the Bids to the aggregate value of Rs. 21.660 billion, which were accepted at this Auction.

We set out below, a Table stating the Bids placed by Perpetual Treasuries Ltd at the Auctions of Treasury Bonds bearing ISIN LKB00821H019 and ISIN LKB011528I017:

**BIDS PLACED BY PERPETUAL TREASURIES LTD AT THE TREASURY BOND  
AUCTIONS OF ISINs LKB00821H019 AND ISIN LKB011528I017 HELD ON 31<sup>ST</sup>  
MARCH 2016**

ISIN	AMOUNT	YIELD RATE (Net of Tax)	ACCEPTED/ REJECTED
<b>LKB00821H019</b>	25,000,000	12.9996	<i>Accepted</i>
	25,000,000	13.1004	<i>Accepted</i>
	25,000,000	13.2003	<i>Accepted</i>
	25,000,000	13.2498	<i>Accepted</i>
	250,000,000	13.4001	<i>Accepted</i>
	25,000,000	13.5000	<i>Accepted</i>
	250,000,000	13.5000	<i>Accepted</i>
	250,000,000	13.5999	Rejected
	250,000,000	13.6998	Rejected
	250,000,000	13.7502	Rejected
	250,000,000	13.7997	Rejected
	250,000,000	13.8501	Rejected
	250,000,000	13.8996	Rejected
	1,000,000,000	13.9203	Rejected
	2,000,000,000	13.9500	Rejected
<b>LKB01528I017</b>	1,000,000,000	13.6503	<i>Accepted</i>
	1,000,000,000	13.6998	<i>Accepted</i>
	1,000,000,000	13.7502	<i>Accepted</i>
	1,000,000,000	13.7997	<i>Accepted</i>

ISIN	AMOUNT	YIELD RATE (Net of Tax)	ACCEPTED/ REJECTED
	1,000,000,000	13.7997	<i>Accepted</i>
	1,000,000,000	13.8501	<i>Accepted</i>
	1,000,000,000	13.8501	<i>Accepted</i>
	1,000,000,000	13.8996	<i>Accepted</i>
	1,000,000,000	13.8996	<i>Accepted</i>
	1,000,000,000	13.9500	<i>Accepted</i>
	2,000,000,000	13.9599	<i>Accepted</i>
	2,000,000,000	13.9698	<i>Accepted</i>
	1,000,000,000	13.9896	<i>Accepted</i>
	100,000,000	14.0004	Rejected
	50,000,000	14.1003	Rejected
	100,000,000	14.1003	Rejected
	200,000,000	14.2002	Rejected
	50,000,000	14.2497	Rejected
	100,000,000	14.2497	Rejected
	100,000,000	14.3001	Rejected

Thus, in the case of the Auction of Treasury Bonds bearing ISIN LKB011528I017, Perpetual Treasuries Ltd placed 20 Bids for an aggregate value of Rs. 15.700 billion and at Yield Rates ranging from Yield Rates of 13.6503 to 14.3001. The first 13 Bids to an aggregate value of Rs. 15.0 billion at Yield Rates ranging from Yield Rates of 13.6503 to 13.9896 have been accepted.

However, it has to be also noted here that, the aforesaid 13 Bids placed by Perpetual Treasuries Ltd for an aggregate value of Rs. 15 billion which were accepted at this Auction of Treasury Bonds bearing ISIN LKB011528I017, were within the first 23 Bids of the 193 Bids received at this Auction. Thus, the Bids placed by Perpetual Treasuries

Ltd which were accepted, were within the 12<sup>th</sup> percentile of the Bids received at the Auction.

However, we have to state here that, although Perpetual Treasuries Ltd has achieved remarkable success at this Auction of Treasury Bonds bearing ISIN LKB011528I017, we have no direct or circumstantial evidence before us which establishes or suggests that, Perpetual Treasuries Ltd had “inside information” [or “price sensitive information”] regarding the “Cut Off Rates” or any other relevant details regarding the decision making process of the CBSL at this Treasury Bond Auction held on 31<sup>st</sup> March 2016.

We also have no direct or circumstantial evidence before us which establishes or suggests that, Perpetual Treasuries Ltd had “inside information” [or “price sensitive information”] regarding the instructions given to the three State Banks at the meeting held, on 30<sup>th</sup> March 2016, at the Ministry of Finance.

In these circumstances, this Commission of Inquiry cannot, on the basis of the evidence placed before us, properly and fairly arrive at a determination that, Perpetual Treasuries Ltd achieved this remarkable success at the Treasury Bond Auction held on 29<sup>th</sup> March 2016, by utilising “inside information” [or “price sensitive information”].

We consider it appropriate to reiterate here that, this Commission of Inquiry can only arrive at determinations on the basis of reliable evidence and not upon suspicion, surmise or speculation.

In view of the evidence placed before us that, Perpetual Treasuries had and utilised “inside information” [or “price sensitive information”] at the Treasury Bond Auction held, two days earlier, on 29<sup>th</sup> March 2016, we considered whether it would be appropriate to, *inter alia*, draw upon the principle referred to in Illustration (e) of the Section 114 of the Evidence Ordinance, and presume that, Perpetual Treasuries had and utilised “inside information” [or “price sensitive information”], at this Treasury Bond Auction held on 31<sup>st</sup> March 2016 too.

However, after consideration, we decided that, since we are limited by the evidence placed before us which only relates to the one instance of the Treasury Bond Auction held on 29<sup>th</sup> March 2016 and in view of the fact that, as observed earlier, the Bids placed by Perpetual Treasuries Ltd which were accepted, were within the 12<sup>th</sup> percentile of the Bids received at the Auction, we are not entitled to apply a presumption and hold that, Perpetual Treasuries has benefitted at the Treasury Bond Auction held on 31<sup>st</sup> March 2016, by obtaining and utilising “inside information” [or “price sensitive information”].

In reaching this decision, we have kept in the forefront of our minds, the duty cast on, as stated by His Lordship Justice Dheeraratne in the Supreme Court in **SIRISENA COORAY vs. TISSA DIAS BANDARANAIKE** [1999 1 SLR 1 at p. 20], “..... *to act, in the words of Burke, with ‘the cold neutrality if impartial judges’, but also fairly.*”.

Finally, we note that, in the case of this Treasury Bond Auction held on 31<sup>st</sup> March 2016, EPF placed Bids for an aggregate sum of Rs. 2.5 billion for Treasury Bonds bearing ISIN LKB011528I017 and did not place any Bids for the Treasury Bonds bearing ISIN LKB01518B013, ISIN LKB00619G019 and ISIN LKB00821H019.

However, we note that, unlike in the case of the Treasury Bond Auction held on 29<sup>th</sup> March 2016, at this Auction held on 31<sup>st</sup> March 2016, the Treasury Bonds bearing ISIN LKB01518B013, ISIN LKB00619G019 and ISIN LKB00821H019 which were offered, are for short Tenors of 01 year and 10 months, 03 years and 03 months and 05 years and 04 months. We also note that, the evidence establishes that, the EPF usually invests in Treasury Bonds with longer Tenors.

In these circumstances, we do not regard as unusual, the fact that, the EPF did not place more Bids at the Treasury Bond Auction held on 31<sup>st</sup> March 2016.

Upon the aforesaid evidence and in the aforesaid circumstances, we hold that:

- (i) We do not see any *ex facie* irregularity in the decision-making process which led to the CBSL accepting Treasury Bonds with an aggregate value of Rs. 50.010 billion at the Treasury Bonds Auction held on 31<sup>st</sup> March 2016.

#### **Section 19.5.9 - Perpetual Treasuries Ltd runs short of funds on 01<sup>st</sup> April 2016**

In addition to conducting the “Open Market Operations of the CBSL, the Domestic Operations Department also operates the Intra Day Liquidity Facility offered by the CBSL.

Mr. Rodrigo said that, in view of the high Interest Rates and the deficit in Liquidity, the Market Operations Committee decided, on 01<sup>st</sup> April 2016, that it was necessary to hold a Reverse REPO Auction and inject Liquidity into the Market. Mr. Mahendran had permitted this Auction to be held.

Thereafter, a Reverse REPO Auction was announced on 01<sup>st</sup> April 2016. A sum of Rs.30 billion was offered at this Auction. Bids were received from more than 10 Market Participants, including Perpetual Treasuries Ltd, which had Treasury Bonds bearing three ISINs, as the Collateral for its Bids. Perpetual Treasuries Ltd had Bids to the value of Rs. 22 billion accepted.

However, Perpetual Treasuries Ltd failed to tender Collateral for the entirety of the Bid value of Rs. 22 billion on 01<sup>st</sup> April 2016. Instead, there had been a shortfall of Rs. 11.5 billion in the value of Treasury Bonds bearing ISIN LKB 011530E152 which Perpetual Treasuries Ltd had undertaken to provide as Collateral for the Reverse REPO Auction on 01<sup>st</sup> April 2016.

Therefore, the corresponding Reverse REPO transaction was not carried out on 01<sup>st</sup> April 2016.

As a result of Perpetual Treasuries Ltd failing to tender Collateral to the full value of Rs. 22 billion, the CBSL had been able to inject only about Rs. 19 billion into the Market, on that day and had been unable to inject the intended sum of Rs. 30 billion into the Market.

Further, as a result of Perpetual Treasuries Ltd's default in tendering Collateral to the value of Rs. 11.5 billion on 01<sup>st</sup> April 2016 and the corresponding Reverse REPO transaction not being carried out on 01<sup>st</sup> April 2016, Perpetual Treasuries Ltd also defaulted in settling, by the end of the day, a sum of Rs. 11 billion sum due upon Intra Day Loans obtained by Perpetual Treasuries Ltd on 01<sup>st</sup> April 2016.

Mr. Rodrigo had immediately informed Assistant Governor, Ms. Mampitiya and Deputy Governor, Mr. Samarasiri of this position.

Mr. Rodrigo said that, he also telephoned Mr. Mahendran, who was at that time, out of Colombo, to advise him of the default. Mr. Rodrigo said that he informed Mr. Mahendran that *"one of the institutions has not settled their transactions with us"*. Mr. Mahendran had then asked, *"which Bank ?"*. Mr. Rodrigo had said *"It's not a Bank. It's a Primary Dealer sir."* Mr. Mahendran had asked, *"Which one?"*. Mr. Rodrigo had replied, *"Perpetual Treasuries"*. Mr. Mahendran's response had been, *"Oh, you know my involvements with the Perpetual Treasuries. And why don't you independently decide. But tell me or inform me before you take any decision."*

In reply to a question asked by the Commission of Inquiry whether, Mr. Mahendran told him what to do, Mr. Rodrigo he said that Mr. Mahendran had not told him what to do.

Mr. Rodrigo also added that, at the time he spoke with Mr. Mahendran, he had miscalculated the penalty payable by Perpetual Treasuries Ltd and thought that a Penalty of Rs. 1.2 billion would have to be paid to the CBSL by Perpetual Treasuries Ltd. He said he informed Mr. Mahendran that, Perpetual Treasuries Ltd would be liable to pay this Penalty of Rs. 1.2 billion. When the Commission of Inquiry asked what Mr. Mahendran's reaction, Mr. Rodrigo said that, Mr. Mahendran had said, *"My Gosh! ! And that is what he said, you take independent decision, inform me let me know before you take decision let him know."*

Mr. Rodrigo said that on the next day – ie: on 02<sup>nd</sup> April 2016 - Mr. Arjun Aloysius of Perpetual Treasuries Ltd had telephoned him and wanted to meet urgently. Mr. Rodrigo had told Mr. Aloysius to meet him at 2pm at the CBSL building. Mr. Rodrigo had then asked his Additional Director, Deputy Director and two staff officers to be present at this meeting.

Mr. Rodrigo said that when he was on his way to CBSL, Mr. Mahendran called him on his mobile phone and the following conversation transpired: Mr. Mahendran had said *"Rodrigo, are you meeting staff from Perpetual Treasuries?"*, to which Mr. Rodrigo said *"Yes. They called me. They wanted to meet me. So I am meeting them at the Bank."* Mr. Mahendran had then said, *"Before you meet them, I am at the Bank, come and call me."*

Mr. Rodrigo said that, when he reached the CBSL and before having any discussion with the representative of Perpetual Treasuries Ltd, Mr. Rodrigo and the officers of the Domestic Operations Department had gone up to meet Mr. Mahendran.

Mr. Mahendran had only asked them to explain what a "gridlock" is. One of the officers of the Domestic Operations Department had explained the nature of a "gridlock" and explained that, the situation which had arisen what was not a "gridlock" but a discrepancy between Delivery vs. Payment. Mr. Rodrigo said that Mr. Mahendran did not make any inquiries thereafter.

When the Commission of Inquiry asked Mr. Rodrigo whether Mr. Mahendran gave any instruction to him *"on how to handle this"*, the witness replied *"No."*

In reply to learned Deputy Solicitor General, who asked Mr. Rodrigo whether he had informed Mr. Mahendran that he had made a miscalculation when he had earlier said the Penalty was about 1.2 billion, Mr. Rodrigo said that he had informed Mr. Mahendran about the miscalculation and that, the Penalty would be Rs. 22 million.



In response to a question from the Commission of Inquiry, Mr. Rodrigo stated that, Mr. Mahendran had not asked any questions regarding the calculation of the Penalty.

Thereafter the witness and his officers had gone back to the Domestic Operations Department and informed the representatives of Perpetual Treasuries Ltd that, a Penalty of 22 million would be charged. This Penalty had been charged from Perpetual Treasuries Ltd.

A further sum of Rs. 7.5 million had been charged from Perpetual Treasuries Ltd with regard to the failure to furnish Collateral and honour the Reverse REPO Transactions against ISIN LKB 011530E152 for the value of Rs. 11.5 billion on 01<sup>st</sup> April 2016.

It is evident that, these Penalties and Charges have been computed and recovered from Perpetual Treasuries Ltd in accordance with the applicable Rules and Regulations of the CBSL.

In response to a question by learned Deputy Solicitor General, Mr. Rodrigo stated that he is aware of only very few previous instances of a default in settlement of Loans taken on the Intra Day Liquidity Facility or a failure to honour a Reverse REPO transaction and that those instances concerned relatively small sums.

Upon the aforesaid evidence, we hold that:

- (i) The fact that, Mr. Arjun Aloysius telephoned Mr. Rodrigo and represented Perpetual Treasuries Ltd on 02<sup>nd</sup> April 2016 at the Department of Domestic Operations at the meeting held on that day in that Department, demonstrates that, Mr. Aloysius was actively involved in the operations of Perpetual Treasuries Ltd;
- (ii) The fact that, Mr. Mahendran telephoned Mr. Rodrigo on 02<sup>nd</sup> Aril 2016 and asked whether Mr. Rodrigo was meeting representatives from Perpetual Treasuries Ltd that day and instructed Mr. Rodrigo to first meet Mr. Mahendran, leads to the inference that, Mr. Mahendran had been informed, by Perpetual Treasuries Ltd that, their representatives were meeting with Mr. Rodrigo on that day;
- (iii) The evidence establishes that, Mr. Mahendran did not seek to intervene or act improperly with regard to the due application of the Rules and Regulations of the CBSL to the default by Perpetual Treasuries Ltd or with regard to the imposition of the proper Penalties on Perpetual Treasuries Ltd.

**Section 19.5.10 - The Meetings of the Monetary Board held on 26<sup>th</sup> April 2016 and 10<sup>th</sup> May 2016**

The issue of Treasury Bonds at the Auctions held on 29<sup>th</sup> March 2016 and the fact that Perpetual Treasuries Ltd obtained a large volume of Treasury Bonds at this Auction, caused concerns in the public domain.

Thereafter, at the meeting of the Monetary Board held on 26<sup>th</sup> April 2016, marked, “**C60B21(i)**”, the two Appointed Members, Mr. C.P.R. Perera and Mr. R. A. Jayatissa, requested the PDD to provide a detailed Report to the Monetary Board with regard to the issue of Treasury Bonds at the Auction on 29<sup>th</sup> March 2016.

The Public Debt Department had prepared a Board Paper stating the funding requirement of Rs. 105 billion on 01<sup>st</sup> April 2016 and setting out details of the Treasury Bond Auctions held on 24<sup>th</sup> March 2016, 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016, to raise funds to meet this funding requirement.

This Board Paper was considered by the Monetary Board at its meeting held on 10<sup>th</sup> May 2016.

We note from the Minutes of the meeting of the Monetary Board held on 10<sup>th</sup> May 2016 that:

- “11.3        *Secretary to the Treasury (ST) reiterated the necessity to minimize the borrowing cost to the Government and both ST and Mr. R A Jayatissa, Appointed Member proposed to have pre-bid meetings or regular meetings with the Primary Dealers to share the information on market developments and to guide the market since the market guidance rate is not announced at present.*
- 11.4        *Mr. R A Jayatissa, Appointed Member, stated that a gradual increase in interest rates is more appropriate compared to a sudden increase.*
- 11.5        *Mr. C P R Perera, Appointed Member inquired of the rationale behind the rejection of the Treasury bond auction held on 24.03.2016 and announcement of the subsequent bond auctions, instead of announcing one auction to raise the total funding requirement in a transparent manner and also whether as a result there was a sudden increase in the yield rates. SPD clarified as follows:*

- a) *The Treasury bond auction held on 24.03.2016 was rejected as the yield rates were very speculative and the amount that could be accepted was small. Further, acceptance of bids at this auction could have led to high yield rates at the next auction to raise Rs. 105 billion.*
- b) *The strategy followed by the PDD is to announce several auctions when the funding requirement is significantly high in order to avoid the possibility of a significant increase in yield rates. If the full amount is announced, there is a possibility that the market may panic and the bids would be highly speculative. Therefore several auctions are announced and bids are selected after careful study of market conditions.*
- c) *At the auction held on 29<sup>th</sup> March, the yield rates in fact were more favorable- for example: the PDD offered 2020A and 2025A Treasury bonds in auctions held on 24<sup>th</sup> and 29<sup>th</sup> March 2016. If PDDD accepted Rs. 10 billion from the bids of 24<sup>th</sup> March for 2020A bonds, the cut off and WAYR would have been 14.50 per cent and 13.59 per cent respectively, while the actual cut off and WAYR on bids accepted for 2020A on 29<sup>th</sup> March were 13.00 per cent and 12.78 per cent, respectively. Similarly, in relation to 2025A bonds, the cut off and WAYR were 18bps and 45bps lower than the bids accepted on 29<sup>th</sup> March, compared with those of 24<sup>th</sup> March, if accepted.*

11.6 *Mr. C P R Perera, Appointed Member was of the view that the Employees' Provident Fund should avoid investing in the secondary market as much as possible by submitting reasonable bids in the primary market.*

11.7 *The Board having considered the paper and the clarification provided by SPD, was of the view that the auctions have been conducted specifically to raise the funding requirement of Rs. 122.37 billion due on 01.04.2016 in a manner to reduce the borrowing cost of the government, amidst a high funding requirement and the rising trend in interest rates due to monetary tightening.*

11.8 *Accordingly, the Board instructed SPD to draft a press release explaining the background and circulate for approval of the Board.” .*

We note that the Annexure to this Board Paper submitted by the PDD to the Monetary Board provides the details of the Bids placed. However, it does not state the identity of the Bidders and the identity of the successful Bidders.

We note that, when Mr. H.A. Karunaratne, Secretary to the Monetary Board, gave evidence, he stated that, a suggestion was made at the meeting of the Monetary Board that, the names of the Bidders should be stated and that, Mr. Mahendran had then commented, *“We cannot be micromanaging”*. We also note that, when Deputy Governor, Samarasiri gave evidence he recalled Mr. Mahendran saying that there was no need to *“micro manage”* and that, the members of the Monetary Board did not insist that, the names of the Bidders be stated.

We also note that, although over a month had passed since the meetings held at the Ministry of Finance on 29<sup>th</sup> March 2016 and 30<sup>th</sup> March 2016 and it is very likely that, Mr. Sarathchandra, the Superintendent of Public Debt and the other senior officers of the PDD had been informed, by Participants in the Market, of these meetings and the instructions given to the State Banks at these meetings, the PDD has not referred to these events in the Board Paper the PDD submitted to the Monetary Board.

We consider that, in this background, it is likely that, Mr. Sarathchandra and the senior officers of the PDD who prepared the Board Paper, have omitted referring to these events in the Board Paper which the PDD submitted to the Monetary Board.

We regard this as a cause for grave concern and consider that the CBSL should investigate this incident and ascertain whether material facts have been suppressed from the Monetary Board and, if necessary, take appropriate disciplinary action against the officers concerned.

**Section 19.5.11 - Did the Treasury Bond Auctions held on 24<sup>th</sup>, 29<sup>th</sup> and 31<sup>st</sup> March 2016 cause a loss to the Government? If so, how much was it?**

With regard to the Treasury Bond Auction held on 24<sup>th</sup> March 2016, as we stated in Section 19.5.3 of this Chapter, the evidence before us does not suggest that, the decision of the Tender Board to reject all Bids received at this Auction was was perverse or that it was made for improper reasons. To the contrary, it appears to us that, the Tender Board has set out, in the Minutes, cogent reasons for its decision. In this connection, we also note that, Dr. W.A. Wijewardena too expressed a similar view when he stated, with regard to this Auction, *“So therefore I don’t find anything in rejecting the respective bids because they are not actually in line with the prevailing market interest rates.”*

Accordingly, as stated earlier, we have determined that, the Tender Board did not act unreasonably or imprudently when it decided to reject all Bids received at the Treasury Bond Auction on 24<sup>th</sup> March 2016, since the Yield Rates at which Bids had been placed at this Auction were unreasonably high.

Therefore, in these circumstances, we do not consider that, that the Treasury Bond Auction held on 24<sup>th</sup> March 2016 and the results of that Auction, caused any avoidable loss to the CBSL.

With regard to the Treasury Bond Auction held on 29<sup>th</sup> March 2016, as stated in Section 19.5.6 above, we have determined that, the evidence does not establish any *ex facie* irregularity in the decision-making process which led to the CBSL accepting Treasury Bonds with an aggregate value of Rs. 77.732 billion at this Auction held on 29<sup>th</sup> March 2016.

Therefore, in these circumstances, we cannot conclude that, any actions or omission of the part of the CBSL during the course of this Auction, caused an avoidable loss to the CBSL.

It is relevant to mention here that, in response to the question asked by learned Senior State Counsel from Dr. W.A. Wijewardena with regard to whether he had any views on a loss that may have been caused as a result of the Treasury Bond Auction held on 29<sup>th</sup> March 2016, Dr. Wijewardena *replied*, “*According to the available information Your Honour we cannot calculate any loss to the Government because the prevailing Interest Rate structure in the Government Securities Market has been actually erratic. So therefore we don’t know which Interest Rate should have been the proper or correct Interest Rate and we are not in a position, I am not in a position to calculate any loss to the Government immediately in this context.*”

In this connection, it has to be kept in mind that, as stated earlier in this Chapter, the PDD and the CBSL had to raise a large funding requirement of Rs. 105 billion on 01<sup>st</sup> April 2016. Thus, the CBSL was placed in a situation where it was compelled to accept Bids to a substantial value at this Auction held on 29<sup>th</sup> March 2015. Further, we also note that, Treasury Bonds to the value of Rs. 40 billion had been offered at the Auction and Treasury Bonds to the value of Rs. 77.732 billion were accepted. This is less than twice the amount placed on offer. The evidence establishes that, at that time, the PDD would frequently accept Bids to the value of two times the amount offered at a Treasury Bonds Auction and that, the Market was used to that practice.

After a careful consideration of the evidence before us, we have also taken the view that, since the practice of accepting Direct Placements had been done away with over

a year before 29<sup>th</sup> March 2016, the PDD or the Tender Board did not have authority to decide, on 29<sup>th</sup> March 2016, to raise any part of the aforesaid sum of Rs. 77.732 billion by accepting Direct Placements.

We have also taken note of the fact that, Mr. Mahendran was on leave at that time and his evidence is to the effect that, he had no involvement with this Auction other than for approving the Minutes of the meeting of the Tender Board when they were sent to him. That had to be in the afternoon of 29<sup>th</sup> March 2016, at the earliest. There is no evidence before us which contradicts that position taken by Mr. Mahendran.

In this connection, we also have to keep in mind that, after the Monetary Board headed by Dr. Indrajith Coomaraswamy decided to introduce the “Hybrid System” of issuing Treasury Bonds [which provides for the acceptance of what may be broadly described as a variation of the previously accepted “Direct Placement”], the CBSL studied this scheme for close to a year before it was introduced.

We have taken the view that, in the aforesaid circumstances, Mr. Mahendran cannot be considered to have been obliged, when he received the Minutes of the meeting of the Tender Board in the afternoon of 29<sup>th</sup> March 2016 [at the earliest], to direct the Tender Board to vary its decision and to accept, by way of Direct Placements, a part of the sum Rs. 77.732 million which the Tender Board had decided to accept by way of Bids placed at the Treasury Bond Auction held on that day.

We note that in his Report the Hon. Auditor General has estimated a loss of Rs. 784.898 million, as a result of the CBSL not raising the balance requirement by way of Direct Placements. For the aforesaid reasons, we do not agree with that estimate.

However, as stated in Section 19.5.6 of this Chapter, we have determined that the evidence establishes that:

- (i) Mr. Arjun Aloysius had “inside information” [or “price sensitive information”] provided to him by a person or persons within the CBSL as to the likely “Cut Off Rates” up to which the CBSL would accept Bids at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016;
- (ii) Mr. Arjun Aloysius had “inside information” [or “price sensitive information”] provided to him by a person or persons at the National Savings Bank and/or Bank of Ceylon or elsewhere that, the State Banks had been instructed to place Bids at low Yield Rates and were, therefore, likely to place restricted Bids at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016;



- (iii) Perpetual Treasuries Ltd used this “inside information” [or “price sensitive information”] to help Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds bearing ISIN LKB01025C157, ISIN LKB01226F014 and ISIN LKB01530E152, at high Yield Rates at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016;
- (iv) The extent to which Perpetual Treasuries Ltd benefitted from the aforesaid “inside information” [or “price sensitive information”] should be estimated and be recovered from Perpetual Treasuries Ltd and its beneficial Owners.

In this connecton, we recognize that, it is difficult to compute the quantum, in monetary terms, of the benefit which Perpetual Treasuries Ltd obtained by using the “inside information” [“price sensitive information”] at the Treasury Bond Auction on 29<sup>th</sup> March 2016.

We consider that given the complexity of the task and the expertise needed to arrive at an accurate estimate, a Forensic Audit or similar process should be carried out to accurately estimate the quantum of the sum to which Perpetual Treasuries Ltd benefitted from the “inside information” [“price sensitive information”] at the Treasury Bond Auction on 29<sup>th</sup> March 2016.

Further, we are of the view that, the evidence before us establishes that, when Perpetual Treasuries Ltd used and gained and benefitted from “inside information” [“price sensitive information”] at the Treasury Bond Auction held on 29<sup>th</sup> March 2016, Perpetual Treasuries Ltd has knowingly violated and acted in breach of Section 6.2, 6.6, 6.7 and 7.1 of the Code of Conduct for Primary Dealers, which has been issued by the CBSL under and in terms of the Regulations issued under the Provision of the Registered Stock and Securities Ordinance No. 7 of 1937, as amended.

We are of the view that, aforesaid violation and breach, by Perpetual Treasuries Ltd, of Section 6.2, 6.6, 6.7 and 7.1 of the Code of Conduct for Primary Dealers, renders Perpetual Treasuries Ltd liable for prosecution for an offence in terms of Section 56A(1) of the Registered Stock and Securities Ordinance. [We earlier set out, in Section 19.2.15 of this Chapter, the nature and effect of Section 56A of the Registered Stock and Securities Ordinance].

We are of the view that, the Hon. Attorney General or other appropriate authorities should consider instituting Proceedings against Perpetual Treasuries Ltd, in terms of the aforesaid provisions of the Law and, in the event of a conviction being entered by a learned Magistrate after Summary Trial, Perpetual Treasuries Ltd could be held liable to a fine equivalent to twice the value of that sum.



Further, we are of the view that, the evidence placed before us establishes that, Mr. Arjun Aloysius and Mr. Kasun Palisena were both parties to and directly responsible for the aforesaid violation and breach of Section 6.2, 6.6, 6.7 and 7.1 of the Code of Conduct for Primary Dealers, by Perpetual Treasuries Ltd and fall within the Section 56B of the Registered Stock and Securities Ordinance.

Finally, with regard to the Treasury Bond Auction held on 31<sup>st</sup> March 2016, as stated in Section 19.5.8 above, we have determined that, we do not see any *ex facie* irregularity in the decision-making process which led to the CBSL accepting Treasury Bonds with an aggregate value of Rs. 50.010 billion at this Auction held on 31<sup>st</sup> March 2016.

Therefore, we cannot, in these circumstances, conclude that, any actions or omission of the part of the CBSL during the course of this Auction caused an avoidable loss to the CBSL.

Further, as stated earlier, we have no direct or circumstantial evidence before us which establishes or suggests that, Perpetual Treasuries Ltd had “inside information” [or “price sensitive information”] regarding the “Cut Off Rates” or any other relevant details regarding the decision-making process of the CBSL at this Treasury Bond Auction held on 31<sup>st</sup> March 2016.

We also have no direct or circumstantial evidence before us which establishes or suggests that, Perpetual Treasuries Ltd had “inside information” [or “price sensitive information”] regarding the instructions given to the three State Banks at the meeting held, on 30<sup>th</sup> March 2016, at the Ministry of Finance.

In these circumstances, this Commission of Inquiry cannot, on the basis of the evidence placed before us, properly and fairly arrive at a determination that, Perpetual Treasuries Ltd achieved this remarkable success at the Treasury Bond Auction held on 31<sup>st</sup> March 2016, by utilising “inside information” [or “price sensitive information”].

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## CHAPTER 20

### **PERPETUAL TREASURIES LIMITED IN THE SECONDARY MARKET**

Perpetual Treasuries Ltd is a “Stand Alone” Primary Dealer which is not a part of the Business Operations of a Licensed Commercial Bank. Accordingly, Perpetual Treasuries Ltd’s sole business is carrying out the business and functions of a Primary Dealer in the Government Securities Market.

Thus, as in the case of all Primary Dealers, Perpetual Treasuries Ltd’s business was, in essence, acquiring Treasury Bonds and Treasury Bills at Auctions [*ie*: in the Primary Market] or from other Primary Dealers [*ie*: in the Secondary Market] and then disposing of these Treasury Bonds and Treasury Bills in the Secondary Market to other Primary Dealers or to Perpetual Treasuries Ltd’s customers, with a view to making a Profit from these transactions.

It is established by the evidence and, in any event, is undisputed that, Perpetual Treasuries Ltd did not follow a policy of holding, on a long term basis and as investments, Treasury Bonds acquired by Perpetual Treasuries Ltd at Auctions or from other Primary Dealers. Instead, Perpetual Treasuries Ltd followed a policy of acquiring Treasury Bonds and then, trading on such Treasury Bonds when Perpetual Treasuries Ltd considered that it was profitable to do so.

It hardly needs to be pointed out that, the acquisition of Treasury Bonds and Treasury Bills at Auctions in the Primary Market, does not [unless it is a purchase on behalf of a customer, on a direction by the customer] bring in revenue to Perpetual Treasuries Ltd or to any other Primary Dealer.

Instead, the revenue received by Perpetual Treasuries Ltd and its Trading Profits or Trading Losses of Perpetual Treasuries Ltd are predominantly from Transactions on Treasury Bonds and Treasury Bills in the Secondary Market.

As observed earlier in Chapter 14, Perpetual Treasuries Ltd commenced Business in early 2014 and, made a Net Profit of Rs. 959.5 million in the Financial Year ended 31<sup>st</sup> March 2015; a sharply increased Net Profit of Rs. 5.124 billion in the Financial Year ended 31<sup>st</sup> March 2016; and an even higher Net Profit of Rs. 6.365 billion in the in the Financial Year ended 31<sup>st</sup> March 2017.

Further, as observed Chapter 14, the Profits made by Perpetual Treasuries Ltd are very much more than the Profits made by any other “stand-alone” Primary Dealer and are, in fact, also very much more than the Profits made by the Primary Dealers who are arms of Licensed Commercial Banks. In the Table set out in Chapter 14, we have illustrated how much higher the Profits made by Perpetual Treasuries Ltd are when compared to the Profits made by other Primary Dealers referred to in that Table. This stark disparity is also highlighted by the documents marked “C160”, “C161” and “C162” which list the Profits made by Primary Dealers and demonstrate the huge difference between the very high Profits made by Perpetual Treasuries Ltd and the Profits made by other Primary Dealers including Primary Dealers who are arms of Licensed Commercial Banks. As evidenced by the document marked “C160”, Profits made by Perpetual Treasuries Ltd accounted for 86.4% of the Profits made by “Stand Alone” Primary Dealers. As set out in the document marked “C161”, Profits made by Perpetual Treasuries Ltd accounted for 52.9% of the Profits made by all Primary Dealers including Primary Dealers who are arms of Licensed Commercial Banks in that same period.

As set out above, these Profits made by Perpetual Treasuries Ltd had to be made, in the main, by Transactions entered into by Perpetual Treasuries Ltd on Treasury Bonds and Treasury Bills in the Secondary Market.

Accordingly, we sought to ascertain how Perpetual Treasuries Ltd made such high Profits from its Transactions in the Secondary Market.

In this connection, it is first necessary to note here that, all Transactions in Treasury Bonds must necessarily take place on the “LankaSecure System”, which is an Electronic Trading Platform established and operated by the CBSL under and in terms of Section 62A of the Monetary Law Act.

Section 62A of the Monetary Law Act states:

- “(1) *The Central Bank may establish and operate one or more systems—*
- (a) *for the transfer of funds by and between the Central Bank, commercial banks and such other institutions or persons that maintain a settlement account with the Central Bank and who are admitted as participants to such system by the Central Bank;*

- (b) **for the transfer and settlement of scripless securities by and between the Central Bank and direct participants;**
  - (c) *for the settlement of payment obligations in respect of transfer and settlement of scripless securities under paragraph (b).*
- (2) *A system established under subsection (1) may be linked to another system in Sri Lanka or elsewhere for the clearing or settlement of payment obligations or securities.*
- (3) *The Central Bank may enter into agreements with the participants of a system established under subsection (1) and issue in writing to the participants of the system rules for the operation of the system.*
- (4) *Without prejudice to the generality of subsection (3), such rules may provide -*
  - (a) *for the provision of intra-day credit against the collateral of securities to the participants and the conditions attaching to the provision of such credit;*
  - (b) *for the appointment of the Central Bank as a certification authority for the purpose of issuing certificates to participants under any law applicable to the appointment of certification authorities in respect of electronic signatures;*
  - (c) *for the formulation and adoption of a code of conduct for participants;*
  - (d) *for the authentication of transactions carried out electronically;*
  - (e) *for the Central Bank, if it considers necessary in the interest of the system, to cease or suspend the operation of the system, or to withdraw or suspend the privileges or rights of any participant or category of participants or to suspend or revoke the membership in the system of a participant;*

- (f) *for the appointment of auditors or inspectors for the auditing or inspection of the operating systems of participants in respect of the settlement system; and*
  - (g) *for the payment of charges and fees to the Central Bank by the participants.*
- (5) ***A payment or transfer made through a system established under subsection (1), is final and irrevocable -***
- (a) *in the case of a transaction involving a funds transfer only, upon the settlement account of the participant requesting the funds transfer being debited;*
  - (b) *in the case of a transaction involving a securities transfer only, upon the securities account of the participant requesting the securities transfer being debited;*
  - (c) *in the case of a transaction involving both a funds transfer and a securities transfer, upon debiting the settlement account or the securities account of a participant requesting the funds transfer or the securities transfer as the case may be, whichever occurs earlier, **and notwithstanding anything to the contrary in any other law, such payment or transfer shall not be required to be reversed, repaid or set aside nor shall any court, order such payment or transfer to be rectified or stayed.***
- (6) *Scripless securities issued under this Act or the Local Treasury Bills Ordinance or the Registered Stock and Securities Ordinance shall be transferred, pledged, encumbered, lent, borrowed or transacted in only as provided by or under the regulations made under this Act or the Local Treasury Bills Ordinance or the Registered Stock and Securities Ordinance, as the case may be.....” [emphasis added].*

Consequent to the Amendments made to the Registered Stocks and Securities Ordinance No.7 of 1937, Treasury Bonds are issued and transacted in Scripless form.

It is evident from the provision in Section 62A of the Monetary Law Act that, the transfer of Title to any Treasury Bond can only take place by means of a Transaction recorded on the “LankaSecure System”.

Therefore, all Transactions on Treasury Bonds are recorded on the “LankaSecure System”.

The evidence of Mr. K.V.K. Alwis, Additional Director of the Information Technology Department of the CBSL, establishes that, during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016, Treasury Bonds bearing 27 ISINs had been issued at Public Auctions conducted by the CBSL. A list of those Treasury Bonds is set out in the document marked “**C166**”.

Mr. Alwis stated that, in view of the very large difference between the Profits made by Perpetual Treasuries Ltd and the Profits made by other Primary Dealers, the Officers of the Hon. Attorney General’s Department assisting the Commission of Inquiry had instructed him to extract Data from the “LankaSettle System” setting out the Transactions by Perpetual Treasuries Ltd on Treasury Bonds which were issued during the period relevant to our Mandate.

Mr. Alwis explained that, when the Transactions by Perpetual Treasuries Ltd on Treasury Bonds which were issued during the period relevant to our Mandate are examined, it is evident that, Perpetual Treasuries Ltd’s Transactions in the Secondary Market were concentrated on Transactions upon Treasury Bonds bearing the following seven ISINs, as set out in the documents marked “**C168**” and “**C169**”:

- (j) ISIN LKB03045C013.
- (ii) ISIN LKB01528I017.
- (iv) ISIN LKB02541A016.
- (v) ISIN LKB01530E152.
- (vi) ISIN LKB01226F014
- (vii) ISIN LKB01025C157
- (viii) ISIN LKB02035C155

Mr. Alwis stated that, as computed by him using the Data on the “LankaSettle System”, Perpetual Treasuries Ltd received an estimated Net Cash Inflow of Rs.11.8 billion from Transactions upon the Treasury Bonds bearing the aforesaid seven ISINs, during the period relevant to our Mandate.

Keeping in mind the terms of our Mandate which, *inter alia*, require us to investigate, inquire into and report on whether Transactions on Treasury Bonds have caused loss to the Government or any Statutory Body, we specifically examined the Transactions which Perpetual Treasuries Ltd had with Statutory Bodies and Government Institutions upon the Treasury Bonds bearing these seven ISINs, during the period relevant to our Mandate.

In this connection, Mr. Alwis produced in evidence, the document marked “**C174**”, which sets out the Transactions which Perpetual Treasuries Ltd had with Statutory Bodies and Government Institutions upon the Treasury Bonds bearing the aforesaid seven ISINs, during the period relevant to our Mandate.

As explained by Mr. Alwis and as evident from the document marked “**C174**”, in most instances, Perpetual Treasuries Ltd has sold Treasury Bonds to an “Intermediary” and the “Intermediary” has sold those Treasury Bonds to the Statutory Body or Government Institution, within a short period of time, with the major portion of the Profit Component accruing to Perpetual Treasuries Limited rather than to the “Intermediary”.

As explained by Mr. Alwis and as evident from the document marked “**C174**”, it is clear that, the Face Value of the Transactions are the same and the Transactions have taken place within a very short time and the irresistible inference is that “Intermediary” has only played the part of providing a “face” or a “route” for Perpetual Treasuries Ltd to sell or buy Treasury Bonds to or from the Statutory Body or Government Institution

In fact, when Mr. Kasun Palisena was cross examined by learned Deputy Solicitor General, Mr. Palisena admitted that, this was a practice adopted by Perpetual Treasuries Ltd.

It is evident from the document marked “**C174**” that, the “Intermediaries” used by Perpetual Treasuries Ltd were, in the main, Pan Asia Bank Banking Corporation PLC, DFCC Bank and Wealth Trust Securities Ltd.

The document marked “**C174**” suggests that, the Statutory Bodies or Government Institutions to which Perpetual Treasuries Ltd sold the Treasury Bonds were, in the main, the EPF, the National Savings Bank and the Sri Lanka Insurance Corporation. Some Treasury Bonds have also been sold to the University Grants Commission.

As explained by Mr. Alwis and as evident from the document marked “**C174**”, the Total Net Cash Inflows received [the monetary gain] by Perpetual Treasuries Ltd from the Sales of Treasury Bonds to the EPF and other Statutory Bodies [directly or through “Intermediaries”] upon each of the aforesaid seven ISINs, during the period relevant to our Mandate is estimated to be:

- (i) Upon ISIN LKB03045C013, a Total Net Cash Inflow of Rs. 713,616,476/-;
- (ii) Upon ISIN LKB01528I017, a Total Net Cash Inflow of Rs. 1,010,584,701/-;



- (iii) Upon ISIN LKB02541A016, a Total Net Cash Inflow of Rs. 953,392,950/-;
- (iv) Upon ISIN LKB01530E152, a Total Net Cash Inflow of Rs. 2,050,487,788/-;
- (v) Upon ISIN LKB01226F014, a Total Net Cash Inflow of Rs. 545,768,186/-;
- (vi) Upon ISIN LKB01025C157, a Total Net Cash Inflow of Rs. 92,407,486/-;
- (vii) Upon ISIN LKB02035C155, a Total Net Cash Inflow of Rs. 1,291,670,930/-;

Thus, as set out above, on the basis of the Entries in the document marked “**C174**”, the estimated Total Net Cash Inflows received [monetary gain made] by Perpetual Treasuries Ltd from the Sales of Treasury Bonds bearing the aforesaid ISINs to the EPF and other Statutory Bodies [directly or through Intermediaries], during the period relevant to our Mandate, aggregate to Rs. 6,657,928,518/-.

The document marked “**C174**” has been prepared from Data extracted from the “LankaSettle System”. The accuracy of the Entries in document marked “**C174**” was not disputed before us [other than for Perpetual Treasuries Ltd claiming that some of the Transaction Codes set out in “**C174**” did not reflect that some of the Transactions which Perpetual Treasuries Ltd had entered into were REPO Transactions and not an “Outright” Transactions. However, as set out below, we note that, the Transaction Codes stated in the “LankaSettle System” reflect the Transaction Codes stated by the Parties to the Transaction and the aforesaid claim made by Perpetual Treasuries Ltd does not affect the accuracy of the Data in “**C174**”].

We are satisfied that, the document marked “**C174**” is an accurate record of the Transactions set out therein.

In this connection, we also note that, as stipulated in the “LankaSettle System” Rules (Volume 3) marked “**C67C**”, a Market Participant is required to correctly identify, by means of specified Transaction Codes, the precise nature of the Transaction to be transacted on the “LankaSettle System”. It is specified that, a REPO Transaction should be identified by one of the following Transaction Codes: “PRT”, “PRN”, “RET”, “REN”, “RRT” or “RRN”. The Transaction Codes recorded in the “LankaSettle System” are simply the Transaction Codes stated by the Parties to the Transaction.

In these circumstances, it is entirely reasonable for us to proceed on the basis that, the Transaction Codes stated in the document marked “**C174**” reflect the type of Transaction which Perpetual Treasuries Ltd and its Counterparties to these Transactions identified the Transaction to be, by the use of the relevant Transaction Codes submitted by Perpetual Treasuries Ltd and its Counterparties.

It has to be noted that, the evidence given by Mr. Alwis makes it clear that, in instances where the Data on the “LankaSettle System” does not state the Price at which a RVF Transaction has been done or where the Price is not stated in respect of any other Transaction, the minimum possible Price which can be reasonably used, has been applied when computing the aforesaid estimated Net Cash Inflows on the basis of the document marked “**C174**”.

Thus, it is seen that, the aforesaid sum of Rs. 6,657,928,518/- which was stated to be the estimated Total Net Cash Inflows received [monetary gain made] by Perpetual Treasuries Ltd from the Sales of Treasury Bonds bearing the aforesaid ISINs to the EPF and other Statutory Bodies [directly or through Intermediaries], during the period relevant to our Mandate, is likely to be the minimum amount and that, in fact, Perpetual Treasuries Ltd is likely to have received a larger sum.

Subsequently, the evidence of Mr. S.P. Sedera, the Assistant Director of the Department of Supervision of Non-Bank Financial Institutions (Primary Dealer Supervision Division) of the Central Bank of Sri Lanka, provided a more accurate estimate of the Total Net Cash Inflows received [Profits made] by Perpetual Treasuries Ltd from the Sales of Treasury Bonds bearing the aforesaid ISINs to the EPF and other Statutory Bodies [directly or through Intermediaries], during the period relevant to our Mandate.

The evidence given by Mr. Sedera makes it clear that, in the course of an Onsite Examination of Perpetual Treasuries Ltd in October 2016, Perpetual Treasuries Ltd was requested to provide, among other Data, details relating to all Outright Transactions in Treasury Bonds entered into by Perpetual Treasuries Ltd during the period from 01<sup>st</sup> April 2015 to 30<sup>th</sup> September 2016.

Mr. Kasun Palisena, Chief Executive Officer of Perpetual Treasuries Ltd had furnished this information by his email dated 18<sup>th</sup> October 2016, which was marked “**C248**” when Mr. Palisena gave evidence.

This document has been termed the “Outrights Report” by Perpetual Treasuries Ltd. It states, *inter alia*, the Prices at which Perpetual Treasuries Ltd carried out its “Outright Sales” and “Outright Purchases” of Treasury Bonds.

The “Outrights Report” marked “**C248**” is a document prepared by Perpetual Treasuries Ltd.

Mr. Sedera and the other Central Bank Official assisting him have used the Prices stated in this “Outrights Report” marked “**C248**” to compute the actual Total Net Cash Inflow received by Perpetual Treasuries Ltd from Transactions upon Treasury Bonds bearing the aforesaid seven ISINs, issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016. This Computation was marked “**C340**”.

Mr. Sedera’s evidence makes it clear that, the computation marked “**C340**” has been prepared ensuring that:

- (e) All Transactions where the entire Face Value has been reversed within a period of less than 30 days between the same Parties, have been excluded;
- (f) All Transactions identified as “Profit Transfers” have been excluded;
- (g) All “Outright Transactions” entries which are not found in the LankaSecure System have been excluded. This has been verified by using the document marked “**C172**”.
- (h) The “Last In First Out’ basis has been used when computing the “Cost of Sales” for all Sales of Treasury Bonds by Perpetual Treasuries Ltd.

Mr. Sedera’s evidence also establishes that, all Transaction Prices have been taken from the “LankaSettle System [i.e: Settlement Amounts] except that:

- (c) With regard to the DVF/RVF Transactions, all Prices have been taken from the Prices stated by Perpetual Treasuries Ltd in Perpetual Treasuries Ltd’s own “Outrights Report” marked “**C248**”;
- (d) Where there is a discrepancy between the Settlement Amount in the Lanka Secure System and the Settlement Amount stated in “**C248**”, the Settlement Amount stated in “**C248**” has been used.

Thus, we are satisfied that, the computation set out in the document marked “**C340**” uses a methodology which is based on the Prices reported by Perpetual Treasuries Ltd to the CBSL in Perpetual Treasuries Ltd’s own “Outrights Report” marked “**C248**” and that, all Transactions which may possibly not be an “Outright Sale” and “Outright Purchase” of Treasury Bonds - *ie:* such as “Sell/Buys” and “Buy/Sells” and “Profit Transfers” to Associate Companies - have been excluded

As stated by Mr. Sedera and as set out in the documents marked “**C340**” and “**C341**”, the Total Net Cash Inflows received [monetary gain made] by Perpetual Treasuries Ltd from all Sales of Treasury Bonds bearing the aforesaid ISINs [which were issued during the period from 01<sup>st</sup> February 2016 to 31<sup>st</sup> March 2016], during the period relevant to our Mandate, aggregate to Rs.11,145,221,479/99/-

As stated by Mr. Sedera and as set out in the documents marked “**C340**” and “**C341**”, the Total Net Cash Inflows received [the monetary gain made] by Perpetual Treasuries Ltd from the Sales of Treasury Bonds bearing the aforesaid ISINs to the EPF and other Statutory Bodies and Government Institutions, during the period relevant to our Mandate, aggregate to Rs. 8,529,964,495/61/-.

Thus, it is seen that, only Rs.2.615 billion of the aforesaid Net Cash Inflow received by Perpetual Treasuries Ltd accrued from the Sale of Treasury Bonds to private entities. The entirety of the balance sum of Rs. 8.539 billion accrued to Perpetual Treasuries Ltd from the sale of Treasury Bonds to the EPF and other Statutory Bodies and Government Institutions.

Thus, 76.53% of Perpetual Treasuries Ltd’s Net Cash Inflow during the period relevant to our Mandate, accrued from the sale of Treasury Bonds to the EPF and other Statutory Bodies and Government Institutions on the Secondary Market.

As set out in the document marked “**C341**”, the aforesaid sale of Treasury Bonds by Perpetual Treasuries Ltd on the Secondary Market were to the EPF, the Sri Lanka Insurance Corporation, the National Savings Bank, “Mahapola”, Funds managed by the CBSL, the University Grants Commission, the Employees’ Trust Fund and the Universities Provident Fund.

The Net Cash Inflows received by Perpetual Treasuries Ltd from the sale of Treasury Bonds to each of the aforesaid Statutory Bodies or Government Institutions, is set out below:

- (i) The EPF - Rs. 6.4 billion;
- (ii) The Sri Lanka Insurance Corporation - Rs. 1.2 billion;
- (iii) The National Savings Bank - Rs. 457 million;

- (iv) "Mahapola" - Rs. 18.8 million;
- (v) Funds managed by the CBSL - Rs. 77.9 million;
- (vi) The University Grants Commission – Rs. 141.7 million;
- (vii) The Universities Provident Fund – Rs. 5.1 million.

We note that, Perpetual Treasuries Ltd did not lead any evidence to suggest that, the computation set out in the documents marked "**C340**" and "**C341**" is incorrect.

In any event, these documents have been prepared using Prices reported by Perpetual Treasuries Ltd to the CBSL and Transaction Data on the "LankaSettle System" which simply reflects the details of the Transactions provided by Perpetual Treasuries Ltd and its Counterparties to the Transactions entered into by Perpetual Treasuries Ltd.

Those details and the Data recorded on the on the "LankaSettle System" cannot be disputed by Perpetual Treasuries Ltd.

In the aforesaid circumstances and upon the evidence before us, we are satisfied that, the Net Cash Inflows set out in the documents marked "**C340**" and "**C341**" are accurate and correctly set out the Total Net Cash Inflows received [monetary gain made] by Perpetual Treasuries Ltd from Sales of Treasury Bonds bearing the aforesaid ISINs, during the period relevant to our Mandate.

In the aforesaid circumstances and upon the evidence before us, we conclude that:

- (i) Perpetual Treasuries Ltd's Transactions upon Treasury Bonds in the Secondary Market during the period relevant to our Mandate were concentrated on Transactions upon Treasury Bonds bearing the following seven ISIN LKB03045C013, LKB01528I017, LKB02541A016, LKB01530E152, LKB01226F014, LKB01025C157 and LKB02035C155;
- (ii) The estimated Total Net Cash Inflows received [monetary gains made] by Perpetual Treasuries Ltd from all Sales of Treasury Bonds bearing the aforesaid ISINs [which were issued during the period from 01<sup>st</sup> February 2016 to 31<sup>st</sup> March 2016], during the period relevant to our Mandate, aggregate to Rs.11,145,221,479/99/-;
- (iii) The estimated Total Net Cash Inflows received [monetary gains made] by Perpetual Treasuries Ltd from the Sales of Treasury Bonds bearing the aforesaid ISINs [which were issued during the

period from 01<sup>st</sup> February 2016 to 31<sup>st</sup> March 2016], to the EPF and other Statutory Bodies and Government Institutions, during the period relevant to our Mandate, aggregate to Rs. 8,529,964,495/61/-;

- (iv) Only Rs.2.615 billion of the aforesaid Net Cash Inflow received by Perpetual Treasuries Ltd, accrued from the Sale of Treasury Bonds private entities. The entirety of the balance sum of Rs. 8.539 billion accrued to Perpetual Treasuries Ltd from the sale of Treasury Bonds to the EPF and other Statutory Bodies and Government Institutions;

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**THE EPF IN THE PRIMARY MARKET AND THE SECONDARY MARKET OF  
TREASURY BONDS**

As observed in preceding Chapter, the Net Cash Inflow by Perpetual Treasuries Ltd from the sales of Treasury Bonds to the EPF bearing the seven specified ISINs [which were issued during the period from 01<sup>st</sup> February 2016 to 31<sup>st</sup> March 2016], in the Secondary Market, during the period relevant to our Mandate, aggregate to Rs. 6.4 billion.

Thus, the Net Cash Inflows by Perpetual Treasuries Ltd from the sales of the aforesaid Treasury Bonds to the EPF, amounts to 57% of the total Net Cash Inflow of Rs. 11.145 billion received by Perpetual Treasuries Ltd from all sales of the aforesaid Treasury Bonds, in the Secondary Market, during the period relevant to our Mandate.

These stark figures raise questions with regard to the circumstances in which the Transactions between Perpetual Treasuries Ltd and the EPF were entered into.

However, we are obliged to take note here that, as stated in Chapter 13, the CBSL has conducted an examination of the Transactions entered into by the EPF and has submitted a Report to the Monetary Board.

As stated in Chapter 13, the Monetary Board has advised us that, it is taking appropriate action with regard to the matters set out in the Report.

In this connection, Dr. Indrajith Coomaraswamy, the Governor of the CBSL has advised us that, the CBSL considers this Report *“as strictly confidential on the basis that several regulatory actions are proposed to be taken based on its findings, including, where necessary, taking legal action in courts of law.”*

*Some parties who are identified in the said report appear to be present or represented either directly or indirectly before the Col, hence if the report is made use of in the proceedings of the Col and is made available to the parties who have expressed an interest in the matters before the Col, it would seriously undermine and hamper the intended regulatory actions to be taken by the Monetary Board.”*



Although the Commissioners were provided with copies of the Report for our “*personal perusal*”, we did not require the production of this Report in evidence, taking into account the reasons stated by the Governor of the CBSL.

We trust that, the Monetary Board and the CBSL will carry out a full and complete investigation into the Transactions entered into by the EPF and identify the loss was caused to the EPF and, if so, identify the persons responsible and, seek to recover such loss from the persons responsible.

We trust that, where appropriate, the Monetary Board and CBSL will consider whether persons who are found to have committed any dishonest acts or who have received inducements in return for entering into Transactions on behalf of the EPF, should be prosecuted.

In this connection, we hardly need to point out that, the Monetary Board and the senior officers of the CBSL act in the capacity of trustees with regard to the EPF.

In view of these circumstances, we do not intend to examine the Transactions entered into by the EPF, in detail, with a view to quantifying the loss to EPF, or identifying all individuals responsible for such loss.

Instead, in this Chapter, we will confine ourselves to pertinent findings based on the evidence led before the Commission of Inquiry.

We now set out our findings based on the evidence placed before us.

Firstly, evidence shows that, although the EPF had substantial sums which were available for investment on many of the days when the PDD held Auctions of Treasury Bonds during the period of our Mandate, the EPF had not used these available funds to place Bids at these Auctions at Prices which were accepted by the PDD at these Auctions.

But, on several such occasions, soon after such Auctions, the EPF had purchased, in the Secondary Market, from Perpetual Treasuries Ltd, the same Treasury Bonds that were offered at those Auctions, but at higher Prices than the Weighted Average Yield Rates at those Auctions.

It is relevant to state here that, in reply to Questions asked by learned Deputy Solicitor General, Mr. Mahendran admitted that he received the Summaries of Capital Market Transactions sent by the EPF to Mr. Mahendran on a daily basis. In this connection, when learned Deputy Solicitor General asked Mr. Mahendran, “*Right. These documents [referring to the Summaries of Capital Market Transactions] would have reached you on daily basis Mr. Mahendran?*”, Mr. Mahendran replied, “*Yes ... Yes...*”.

Therefore, Mr. Mahendran could not have been unaware that, there were several instances where the EPF did not use available funds to place Bids at Auctions at Prices which were accepted by the PDD, but, soon thereafter, purchased, in the Secondary Market, the same Treasury Bonds that were offered at those Auctions, but at higher Prices than the Weighted Average Yield Rates at those Auctions.

Secondly, there is clear evidence that, there were several instances where Perpetual Treasuries Ltd and the EPF entered into a series of Transactions by which Perpetual Treasuries Ltd sold Treasury Bonds to the EPF [directly or through “Intermediaries”] at high Prices [low Yield Rates] and then purchased these Treasury Bonds back from the EPF at lower Prices [high Yield Rates].

In this connection, the Chief Dealer of Perpetual Treasuries Ltd testified, on oath, that Perpetual Treasuries Ltd frequently dealt with the EPF in Treasury Bonds on the Secondary Market and that, Perpetual Treasuries Ltd would “switch” Treasury Bonds to the EPF using another Primary Dealer as an “Intermediary”.

This evidence is supported by Recordings of some Telephone Conversations between officers of Perpetual Treasuries Ltd and the Head of the Front Office of the EPF Department of the CBSL.

Further, the letter marked “**C186**” written by the Pan Asia Banking Corporation PLC to the CBSL sets out evidence of two such series of Transactions where, following the Treasury Bond Auctions held in September and October 2015, Perpetual Treasuries Ltd sold [through an “Intermediary”], in November 2015, Treasury Bonds bearing ISIN LKB01530E152 and ISIN LKB02035C155 to the EPF and then bought those Treasury Bonds back from the EPF [through an “Intermediary”] at a marginally higher Price [marginally lower Yield Rate] and then resold the Treasury Bonds back to the EPF through an intermediary at a much higher Price [much lower Yield Rate ].

Another example is the series of Transactions between Perpetual Treasuries Ltd and the EPF following the Treasury Bond Auctions held on 28<sup>th</sup> January 2016 and in February 2016.

The EPF Deal Tickets relating to these Transactions produced before the Commission, show that, these Treasury Bonds have been sold from the EPF’s “Trading Portfolio” at a low Prices [High Yield Rates] and bought back to its “Hold to Maturity Portfolio”, a few days later, at significantly higher Prices [lower Yield Rates].

A further example is the example is the series of Transactions between Perpetual Treasuries Ltd and the EPF following the Treasury Bond Auctions held in March 2016.

Thirdly, the Chief Dealer of Perpetual Treasuries Ltd testified, on oath, that, from 2014 onwards, the Perpetual Treasuries Ltd paid monetary inducements to the incumbent Head of the Front Office of the EPF.

Further, we have before us, evidence which suggests that, there were extensive telephonic contact between Mr. Arjuna Aloysius of Perpetual Treasuries Ltd and officers of the EPF Department of the CBSL, during the period of our Mandate.

Fourthly, Mr. R.A.B. Dias of Pan Asia Banking Corporation PLC testified, on oath, that, all Transactions between Perpetual Treasuries Ltd and the EPF which were “switched” through Pan Asia Banking Corporation PLC, were arranged by Mr. Kasun Palisena of Perpetual Treasuries Ltd and Mr. Indika Saman Kumara, who was then the Head of the Front Office of the EPF. In terms of the Investment Trading Guidelines of the EPF, Mr. Saman Kumara did not have the right to be a party to “switching” since his superior officers at the EPF had a right to know the “real” Counterparties the EPF was dealing with.

The fact that, Mr. Indika Saman Kumara entered into these Transactions on behalf of the EPF, is proved by several Recordings of the Telephone Conversations relating to these Transactions.

When Mr. Indika Saman Kumara gave evidence and some of the Recordings of the Telephone Conversations were played, he admitted that he entered into these Transactions.

In any event, as the Head of the Front Office of the EPF during that period, Mr. Saman Kumara cannot deny that he entered into these Transactions.

The evidence conclusively establishes that, Mr. Saman Kumara has very substantial Assets which are entirely out of line with his salary of approximately Rs. 200,000/- per month, received from the CBSL.

It is relevant to reiterate here that, the Chief Dealer of Perpetual Treasuries Ltd testified, on oath, that, from 2014 onwards, the Perpetual Treasuries Ltd paid monetary inducements to the incumbent Head of the Front Office of the EPF.

These circumstances raise grave questions with regard to Mr. Saman Kumara's actions while he functioned as the Head of the Front Office of the EPF.

We recommend that CBSL carries out a complete investigation into these matters and that, appropriate Regulatory Action be taken. We recommend that, where appropriate, prosecutions are instituted.

Sixthly, Mr. Jayalath, the then Superintendent of the EPF Department, stated that, Mr. Mahendran insisted that Mr. Saman Kumara must be attached to the Front Office of the EPF, which deals in Treasury Bonds and other Securities. Mr. Jayalath also testified that, he was of the view that Mr. Saman Kumara had frequent contact with Mr. Mahendran with regard to the transactions of the EPF. Mr. Mahendran denied the claims made by Mr. Jayalath.

Seventhly, we note that, following Mr. C.P.R. Perera, who is an Appointed Member of the Monetary Board, raising concerns with regard to allegations that some members of the Staff of the EPF Department of the CBSL were acting in collusion with a few Primary Dealers when trading in the Secondary Market on Treasury Bonds, Mr. Mahendran had instructed Mr. Jayalath, then Superintendent of the EPF to examine whether these allegations had any substance and to submit a Report.

Mr. Jayalath had, with the assistance of his Staff in the EPF Department of the CBSL, submitted the Reports, which are compendiously marked “**C206**”, to Mr. Mahendran. We have referred these Reports in Chapter 13.

These Reports are vague and do not refer to the questionable Transactions and circumstances referred to earlier and, therefore, the integrity of these Reports is questionable.

In any event, after Mr. Jayalath submitted these Reports to Mr. Mahendran, it appears that, Mr. Mahendran did not take any action with regard to the prevailing situation at the EPF until the Monetary Board in May 2016, directed that, the EPF limits trading in the Secondary Market and concentrates on purchasing Treasury Bonds in the Primary Market. In fact, the EPF stopped trading altogether in the Secondary Market in May 2016.

It is pertinent to note that, from May 2016 onwards, the Net Cash Inflows [monetary gains] to Perpetual Treasuries Ltd fell drastically. This reinforces the inference that. PTL's Profit's were heavily dependant on the prearranged Transactions with EPF at artificial Prices.

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## CHAPTER 22

### **THE FORENSIC REPORT BY THE CID AFTER AN ANALYSIS OF THE DATA EXTRACTED FROM THE MOBILE PHONES OF ARJUN ALOYSIUS AND OTHERS**

The Commission of Inquiry had, in the exercise of its powers under and in terms of Section 7 of the Commissions of Inquiry Act No. 17 of 1948, issued Orders directing Mr. Arjun Aloysius and Mr. Arjuna Mahendran to submit their mobile telephones and electronic devices to the Commission of Inquiry to arrange to carry out an examination of the data on these mobile telephones and electronic devices, since such data was likely to be relevant to the investigation and inquiry into the matters specified in the Mandate issued to the Commission of Inquiry.

Both Mr. Arjun Aloysius and Mr. Arjuna Mahendran complied with those Orders and submitted their mobile telephones and electronic devices to the Commission of Inquiry, to enable this examination.

Those mobile telephones and electronic devices were forwarded to the Criminal Investigation Department, which was assisting the Commission of Inquiry, for the purpose of the extraction of the data contained in those mobile telephones and electronic devices so that, the officers of the Hon. Attorney-General's Department, who are assisting the Commission of Inquiry, could examine such data for the purpose of assisting the Commission of Inquiry by presenting, for examination by the Commission of Inquiry, the evidence relevant to the efforts of the Commission of Inquiry to carry out our Mandate.

The Commission of Inquiry made an Order dated 14<sup>th</sup> August 2017 specifying the Procedure to be followed when the officers of the Criminal Investigation Department carry out an examination and extraction of the data on those mobile telephones and electronic devices. We have been advised that, this process has been carried out in terms of that Order. We have been further advised that, the officers of the Hon. Attorney-General's Department who are assisting the Commission of Inquiry had, for the purpose set out earlier, examined the data which was extracted from those mobile telephones and electronic devices.

On 16<sup>th</sup> November 2017, when Sub Inspector Y.Y. Jayasinghe of the Criminal Investigation Department was giving evidence, learned Additional Solicitor General produced, marked "C350", a "Forensic Report on Communication Information Analysis" prepared by that witness and the Criminal Investigation Department.

This Report, *inter alia*, stated that, the Criminal Investigation Department had extracted the data on the mobile telephones used by Mr. Arjun Aloysius and Mr. Arjuna Mahendran and carried out an analysis of that data and also the data furnished to the Commission of Inquiry, by several Telecommunication Service Providers.

Chief Inspector B.M.A.S.K. Senaratne and Sub Inspector J.P.Y.Y. Jayasinghe of the Criminal Investigation Department gave detailed evidence with regard to the manner in which data on the mobile telephones of Mr. Aloysius and Mr. Mahendran had been extracted by the application of internationally reputed and reliable Computer Programs which are used by the Criminal Investigation Department for the purpose of its examinations.

Further, evidence was placed before us of the manner in which the Criminal Investigation Department had used this data, together with the data provided by several Telecommunication Service Providers [Sri Lanka Telecom PLC, Dialog Axiata PLC, Etisalat Lanka (Pvt) Ltd, Bharti Airtel Lanka (Pvt) Ltd and Mobitel (Pvt) Ltd] with regard to the Telephone Numbers and Call Records of persons specified by the Commission of Inquiry and the names of the subscribers specified by the Commission of Inquiry and the Call Records relating thereto. Further, affidavits have been obtained from the authorised officers of these Telecommunication Service Providers, verifying the accuracy of the data submitted. These affidavits and the related documents and also the Orders issued to the Telecommunication Service Providers, have been produced in evidence. It should be stated that, the Commission of Inquiry had, under and in terms of the Provisions of the Commissions of Inquiry Act No. 17 of 1948, directed these Telecommunication Service Providers to submit this data to the Commission of Inquiry.

After a careful consideration of the evidence placed before us by Chief Inspector Senaratne and Sub Inspector Jayasinghe, we are of the view that, the Computer Programs used by the Criminal Investigation Department to extract data from the Mobile Telephones of Mr. Aloysius and Mr. Mahendran are reliable Applications, which ensure that data is extracted in the form it was on the mobile telephones, without leaving room for the data to be altered, tampered with or changed in the process of extraction. We note that these Programs are internationally reputed and are used by Police Departments and investigative authorities worldwide. We have no reason to doubt the integrity and accuracy of the data extracted from the mobile telephones of Mr. Aloysius and Mr. Mahendran.

We have also carefully considered the evidence of Chief Inspector Senaratne and Sub Inspector Jayasinghe, who were cross examined by Counsel representing Mr. Aloysius and Mr. Mahendran, and we are satisfied that the examination they carried out, by

which they analysed the data extracted from the mobile telephones of Mr. Aloysius and Mr. Mahendran together with the data provided by the Telecommunication Service Providers, has been accurately and reliably carried out. In these circumstances we have determined that the evidence contained in the Report marked, “**C350**”, is an accurate and reliable representation of the record of the Telephone Calls, Text Messages, Viber or Whatsapp Calls and Messages recorded on the Mobile Telephones used by Mr. Aloysius and Mr. Mahendran.

Learned Counsel appearing on behalf of Mr. Mahendran submitted that, the evidence contained in “**C350**” is not admissible for the reason that it is prohibited by operation of Section 18 of the Computer Crimes Act No. 24 of 2007 because a Warrant has not been issued by a Magistrate prior to obtaining this evidence and also because Sub Inspector Jayasinghe is not a “*certified officer*” as contemplated in Section 22(2) of the Computer Crimes Act. Learned Counsel appearing on behalf of Mr. Kasun Palisena made submissions on similar lines.

We are of the view that the material set out in “**C350**” has been obtained in pursuance of an Order issued under Section 7 of the Commissions of Inquiry Act No. 17 of 1948 and that, Mr. Aloysius and Mr. Mahendran have, without demur or objection, complied with the Order and handed over their mobile telephones to the Commission of Inquiry for examination and extraction of data. We also note that when Mr. Romesh De Silva, PC addressed the Commission of Inquiry at the commencement of Mr. Mahendran’s evidence, he submitted that, Mr. Mahendran acted voluntarily when he handed over his mobile telephone.

Thus, we are of the view that, Section 18 and Section 22 of the Computer Crimes Act No. 24 of 2007 are not applicable to the aforesaid Order issued under Section 7 of Commission of Inquiry Act No. 17 of 1948 and do not prohibit us from obtaining this evidence and do not prohibit the production of the Report in evidence.

It was also submitted by learned Counsel appearing for Mr. Mahendran that, this evidence has been obtained in violation of Sections 5, 6 and 7 of the Evidence (Special Provisions) Act No. 14 of 1995. Learned Counsel appearing on behalf of Mr. Kasun Palisena made submissions on similar lines.

We note that the Report marked “**C350**”, is a Report prepared by the analysis of data and is not a “*statement produced by a computer*” as contemplated in Section 5 of the Evidence (Special Provisions) Act. For these reasons, we are of the view that the production of this evidence has not been produced in violation of the provisions of the Evidence (Special Provisions) Act No. 14 of 1995. Further, we note that, Section 3 read with Section 21 of the Electronic Transactions Act No. 19 of 2006, will apply.



In any event, we note that, Section 7 (1) (d) of the Commissions of Inquiry Act No. 17 of 1948 provides that, the provisions of the Evidence Ordinance do not apply to Proceedings before us.

Further it was submitted by learned Counsel appearing for Mr. Mahendran that, the evidence contained in the Report marked, “**C350**” cannot be considered by the Commission of Inquiry because a consideration of this evidence will violate the Rules of Natural Justice *“insofar as Mr. Mahendran is concerned”* because *“such evidence was not put to Mr. Mahendran when he gave evidence before this Commission; - Mr. Mahendran was not given an opportunity of explaining such material when he gave evidence.”*

We are of the view that the evidence contained in the Report is admissible because the Report has been proved and because we are of the considered view that, the Report accurately sets out facts evidenced by the data based on which this Report was produced. Further, as we have stated earlier, we are of the considered opinion that, the Report is prepared from a reliable and accurate record of the data on the mobile telephones of Mr. Aloysius and Mr. Mahendran.

However, we agree with the submission made on behalf of Mr. Mahendran that, we will be acting in violation of the Rules of Natural Justice if we consider the material in the Report when determining whether or not Mr. Mahendran has been guilty of any negligence or impropriety or misconduct in connection with the matters within our Mandate or when determining whether or not Mr. Mahendran has any responsibility or liability relating to or arising from the matters which are within our Mandate.

We note that, the contents of this Report were not put to Mr. Mahendran, although he gave evidence over several days. We are of the view that, therefore, the material contained in the Report cannot be used when we determine whether or not Mr. Mahendran has been guilty of any negligence or impropriety or misconduct in connection with the matters within our Mandate or when we determine whether or not Mr. Mahendran has any responsibility or liability relating or arising from the matters which are within our Mandate. We are of the view that, considering the material in the Report *vis-à-vis* Mr. Mahendran, would violate the Rules of Natural Justice.

In this connection we keep in mind, our duty to act fairly and without offending one’s sense of justice and fair play, as emphasized and recognized by the Supreme Court. We also keep in mind the Proviso to Section 23 of the Commissions of Inquiry Act which stipulates, *“Provided however, the Commission shall not arrive at any conclusion on such matter or incident investigated into, unless the Commission has examined the material collected in the course of such investigation and inquired into such matter or incident, observing the rules of natural justice.”*

In these circumstances we will not be considering the material in the Report when determining whether or not Mr. Mahendran has been guilty of any negligence or impropriety or misconduct in connection with the matters within our Mandate or when determining whether or not Mr. Mahendran has any responsibility or liability relating or arising from the matters which are within our Mandate.

For the same reasons, we will not consider the material in the Report to arrive at any determination against Mr. Kasun Palisena or against any of the other persons who are named in the Report as persons having had telephonic communications with Mr. Mahendran or Mr. Aloysius, since Mr. Kasun Palisena and those other persons named in the Report, have not been heard with regard to the material in the Report.

We also wish to state here that, although the Commission of Inquiry had required the production of the mobile telephones and the submission of data by the Telecommunication Service Providers several months before 16<sup>th</sup> November 2017, there has been considerable delay in the presentation of the Report. Eventually, the Report was presented, by the officers of the Hon. Attorney General's Department who assisted the Commission of Inquiry, for the examination of the Commission of Inquiry, only on 16<sup>th</sup> November 2017. By then, the very limited time available to us to submit our final Report to His Excellency, the President, made it impossible to call Mr. Kasun Palisena and the aforesaid persons before us and give them an opportunity to be heard with regard to the material in the Report.

However, we note that this restriction we have imposed on ourselves as a requirement of Natural Justice, does not apply in the case of Mr. Arjun Aloysius who had every opportunity to give evidence since he was summoned before the Commission of Inquiry but chose not to give evidence before us, by invoking the Rule of the Law that, an accused person cannot be compelled to incriminate himself.

In those circumstances, Mr. Aloysius cannot say that the Commission of Inquiry is not entitled to consider the material in the Report marked "**C350**", when determining whether or not Mr. Aloysius has been guilty of any impropriety or misconduct in connection with the matters within our Mandate or when determining whether or not Mr. Aloysius has any responsibility or liability relating to or arising from the matters which are within our Mandate.

Finally, we wish to observe here that, although we are not entitled to arrive, on the basis of the material set out in the Report marked "**C350**", at any determination against Mr. Mahendran or Mr. Kasun Palisena or any other person identified in the Report as having had telephonic contact with Mr. Mahendran or Mr. Aloysius, we do not see any bar to the Hon. Attorney General and other appropriate authorities considering the material contained in the Report "**C350**" [and related documents] and deciding whether or not appropriate proceedings should be instituted in any other forum against

Mr. Mahendran, Mr. Kasun Palisena and such other persons, in accordance with the Law.

In this connection, we note that, the Hon. Attorney General and other appropriate authorities could also consider whether the material contained in the Report “**C350**” [and related documents] establishes that, some of the evidence given by Mr. Mahendran and Mr. Palisena before us, is shown to have been incorrect and, if that is the case, whether there are grounds for prosecutions under Section 179 and/or Section 188 of the Penal Code or other relevant provision of the Law, read with Section 9 of the Commissions of Inquiry Act No. 17 of 1948.

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**PERPETUAL TREASURIES LTD'S PROFITS AND HOW THEY WERE MADE**

**Arjun Aloysius and Perpetual Treasuries Ltd**

As stated earlier, Mr. Geoffrey Aloysius and Mr. Arjun Aloysius have been, jointly, the sole beneficial owners of Perpetual Treasuries Ltd during the entire period of our Mandate.

Further, as stated earlier, Mr. Arjun Aloysius, together with Mr. Kasun Palisena controlled the day-to-day operations of Perpetual Treasuries Ltd and have responsibility for the Transactions of Perpetual Treasuries Ltd during the period of our Mandate.

After hearing the evidence of approximately 50 witnesses and in view of the evidence then before us with regard to the Transactions entered into by Perpetual Treasuries Ltd including Recordings of Telephone Conversations and other matters which related to Mr. Aloysius's actions and conduct and his relationship with several persons which were of concern to the Commission of Inquiry, we issued Summons requiring Mr. Arjun Aloysius to appear before us and give evidence on 11<sup>th</sup> September 2017.

On that day, learned President's Counsel appeared for Mr. Arjun Aloysius and submitted that, his client objects to giving evidence on the basis that, Mr. Aloysius is likely to incriminate himself if he gives evidence. Learned President's Counsel went on to state that, if Mr. Aloysius gives evidence, there is every possibility of a charge or indictment being made against Mr. Aloysius. Learned President's Counsel submitted that, compelling his client to give evidence may prejudice his client's right to a fair trial in the event of him being prosecuted for an offence or offences.

Learned President's Counsel submitted that, in those circumstances, his client cannot be compelled to give evidence against his wishes, due to the operation of the established Principle of the Law that, a person who is accused of an offence cannot be compelled to give evidence.

After very careful consideration, we held that, in view of the established Principles of Law which we considered are relevant to the Proceedings before us, we should not compel Mr. Arjun Aloysius to give evidence if he is unwilling or refuses to do so. We were of the view that, the Rule of Law must take precedence over any considerations of public interest or other considerations.

In those circumstances, we delivered an Order holding that, we cannot compel Mr. Aloysius to give evidence if he refuses to do so for the reasons stated by his Counsel.

At the same time, we advised learned President's Counsel that, in our view, Mr. Aloysius should give evidence and use that opportunity to seek to explain matters that were relevant to the evidence placed before us.

We specifically requested learned President's Counsel to carefully consider and explain to Mr. Arjun Aloysius, the implications and consequences of not giving evidence and seeking to give his explanation with regard to the evidence that was before us.

However, on the next day, presumably after such consideration and advice, learned President's Counsel stated that, Mr. Aloysius refuses to give evidence for the reasons submitted by learned President's Counsel.

We then took the precautionary step of asking Mr. Arjun Aloysius to come before us and we asked whether he refused to give evidence and whether he knew the implications and consequences of not giving evidence and seeking to give his explanation with regard to the evidence that was before us. Mr. Aloysius replied in the affirmative to both questions asked by the Commission of Inquiry.

In these circumstances, we have no hesitation in arriving at such determinations against Mr. Arjun Aloysius, as are established by the evidence placed before us. In this connection, we consider that we are amply justified in applying the rationale encapsulated in the well-known "Ellenborough *dictum*".

It is evident to us that, Mr. Arjun Aloysius and Mr. Kasun Palisena were in control of the day to day operations and transactions of Perpetual Treasuries Ltd, during the period of our Mandate and can be, properly, considered to be the persons who have primary responsibility for the actions of Perpetual Treasuries Ltd, during that period.

### **Perpetual Treasuries Ltd's *modus operandi***

As stated earlier, Perpetual Treasuries Ltd made a Net Profit of Rs.5.124 billion in the Financial Year ended 31<sup>st</sup> March 2016 and a Net Profit of Rs. 6.365 billion in the Financial Year ended 31<sup>st</sup> March 2017.

It is necessary to ascertain the method by which Perpetual Treasuries Ltd made these phenomenal Profits.

A perusal of the results of the Treasury Bond Auctions show that, as previously stated, Perpetual Treasuries Ltd used "inside information" ["price sensitive information"] to

obtain very high values of Treasury Bonds at low prices and very attractive Yield Rates at the Treasury Bond Auctions held on 27<sup>th</sup> February 2015 and 29<sup>th</sup> March 2015.

Further, a perusal of the results of Treasury Bond Auctions held during the period of our Mandate shows that, Perpetual Treasuries Ltd often succeeded in obtaining Treasury Bonds at Auctions at attractive Prices and Yield Rates.

As a result, Perpetual Treasuries Ltd was able to acquire a substantial value of Treasury Bonds, at attractive Prices and Yield Rates, at Auctions held during the period of our Mandate.

This gave Perpetual Treasuries Ltd leverage to profitably trade on these Treasury Bonds at high Prices and low Yield Rates, when the opportunity to do so arose.

As observed in Chapter 20, the Profits made by Perpetual Treasuries Ltd accrued from Trading on these Treasury Bonds in the Secondary Market.

As observed in Chapter 20, the evidence establishes that, the Total Net Cash Inflows received [monetary gains made] by Perpetual Treasuries Ltd from all Sales of Treasury Bonds bearing the seven specified ISINs, during the period relevant to our Mandate, aggregate to Rs.11,145,221,479/99/-.

Further, as observed in Chapter 20, the evidence establishes that, the estimated Total Net Cash Inflows received [monetary gains made] by Perpetual Treasuries Ltd from the Sales of Treasury Bonds bearing the aforesaid ISINs, to the EPF and other Statutory Bodies and Government Institutions, during the period relevant to our Mandate, aggregate to Rs. 8,529,964,495/61/-.

We note that, the evidence before us establishes that:

- (i) At meetings held at the Ministry of Finance, prior to the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016, the officers of the three State Banks were directed to bid at low Yield Rates at these Auctions, by the Minister of Finance, and that the State Banks did so;
- (ii) The Recordings of the Telephone Conversations between Mr. Arjun Aloysius and Mr. Kasun Palisena on 29<sup>th</sup> March 2016 make it clear that, Perpetual Treasuries Ltd received “inside information” [“price sensitive information”] from a source within the PDD or the CBSL with regard to the “Cut Off Rates” and other relevant details regarding the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 including the fact that the State banks had been directed to bid at low Yield Rates;

- (iii) The Recordings of the Telephone Conversations between Mr. Arjun Aloysius and Mr. Kasun Palisena on 29<sup>th</sup> March 2016 make it clear that, neither Mr. Aloysius or Mr. Palisena considered it unusual that Mr. Aloysius possessed such “inside information” [“price sensitive information”].

That raises a strong inference that there was a pattern of Perpetual Treasuries Ltd receiving “inside information” [“price sensitive information”] from the PDD or elsewhere in the CBSL;

- (iv) The Data extracted from Mr. Aloysius’s mobile phone establishes that, Mr. Aloysius was in frequent telephonic contact with one or more key officers of the PDD [due to the fact that, this evidence was presented just before Hearings were terminated in order to prepare this Report and, therefore, these persons did not have an opportunity to provide an explanation with regard to such evidence, we do not name that officer or officers of the PDD in this Report];
- (v) The document marked “**C250**” and other evidence conclusively establishes that, Perpetual Treasuries Ltd has, in the vast majority of instances, sold Treasury Bonds to the EPF and other Statutory Bodies, at Yield Rates which were much lower than the Yield Rates at which Perpetual Treasuries Ltd sold comparable Treasury Bonds to private entities, in the Secondary Market;
- (vi) The documents marked “**C252**” to “**C260**” establish that, Perpetual Treasuries Ltd has deliberately misrepresented, to the CBSL, the details of the Transactions which Perpetual Treasuries Ltd had entered into and the Prices at which these Transactions were done.

Perpetual Treasuries Ltd has misrepresented these details and Prices on 266 days during the period relevant to our Mandate - *ie*: approximately 70% of the related Reports submitted by Perpetual Treasuries Ltd to the CBSL misrepresented details and Prices of Transactions entered into by Perpetual Treasuries Ltd.

These misrepresentations made by Perpetual Treasuries Ltd resulted in the CBSL receiving a false picture of the Yield Rates at which Perpetual Treasuries Ltd carried out its Transactions. The CBSL has acted on those incorrect Yield Rates when publishing Yield Rates in the Secondary Market and assessing the value of Transactions done in the Secondary Market. That



was especially so, due to the high volume of Transactions reported by Perpetual Treasuries Ltd;

- (vii) Perpetual Treasuries Ltd has used the aforesaid misrepresentations made to the CBSL, to the benefit of Perpetual Treasuries Ltd, when trading on the Secondary Market;
- (viii) The evidence establishes that, Perpetual Treasuries Ltd frequently used the device of “switching” Purchases and Sales of Treasury Bonds through “Intermediaries” [such as Pan Asia Bank Banking Corporation PLC, DFCC Bank and Wealth Trust Securities Ltd] to disguise the fact that, real Transactions were between Perpetual Treasuries Ltd and the EPF or other Statutory Bodies;
- (ix) The evidence establishes that, in the case of several of the Transactions between Perpetual Treasuries Ltd and the EPF which were “switched” through Pan Asia Bank Banking Corporation PLC, the Prices at which EPF bought or sold Treasury Bonds had been “fixed” by Perpetual Treasuries Ltd;
- (x) The Letter marked “**C186**” and other evidence establishes that, Perpetual Treasuries Ltd and the EPF and other Statutory Bodies entered into a series of Transactions by which a quantity of Treasury Bonds were repeatedly bought and sold between the two parties, in the Secondary Market, to the monetary advantage of the Perpetual Treasuries Ltd;

The letter marked “**C186**” and other evidence establishes that, following the Treasury Bond Auctions held in September and October 2015, Perpetual Treasuries Ltd entered into a series of Transactions by which Perpetual Treasuries Ltd sold Treasury Bonds to the EPF and other Parties and then bought those Treasury Bonds back from those same Parties at low Prices [high Yield Rates] and then resold the Treasury Bonds to the same Parties and then bought the Treasury Bonds back from the same Parties at even lower Prices [higher Yield Rates Rate].

The EPF Deal Tickets relating to these Transactions produced in evidence, show that, the EPF has sold Treasury Bonds from the EPF’s “Trading Portfolio” at a low Prices [high Yield Rates] and bought back comparable Treasury Bonds to its “Hold to Maturity Portfolio”, a few days later, at significantly higher Prices [lower Yield Rates].

A Similar series of Transactions took place following the Treasury Bond Auction held on 28<sup>th</sup> January 2016 and in February 2016.

Another instance is the series of Transactions which took place following the Treasury Bond Auction held in March 2016.

The document marked “**C273**”, which sets out a Capital Gains Summary prepared by Perpetual Treasuries Ltd, establishes that, Perpetual Treasuries Ltd made its highest Capital Gains in the months of June 2015, November 2015, January 2016, April 2016 and May 2016.

Thus, in June 2015, Perpetual Treasuries Ltd made a Capital Gain of Rs 749.6 million, in November 2015, Perpetual Treasuries Ltd made a Capital Gain of Rs 2.607 billion, in January 2016, Perpetual Treasuries Ltd made a Capital Gain of Rs 983,790 million, in April 2016, Perpetual Treasuries Ltd made a Capital Gain of Rs 2.561 billion and in May 2016 Perpetual Treasuries Ltd made a Capital Gain of Rs 2.091 million.

Thus, the Capital Gains made by Perpetual Treasuries Ltd in the aforesaid five months amount to Rs. 8.993 billion out of total Capital Gains of Rs. 11.595 billion made by Perpetual Treasuries Ltd from April 2015 to September 2016.

These facts suggest that, a major part of the Profits of Perpetual Treasuries Ltd were made by means of Transactions such as the aforesaid series of Transactions set out in the letter marked “**C186**” where Perpetual Treasuries Ltd sold Treasury Bonds to the EPF and then bought those Treasury Bonds back from the EPF at a low Price [high Yield Rate] and then resold the Treasury Bonds back to the EPF and then bought the Treasury Bonds back from the EPF at an even lower Price [higher Yield Rate].

The Treasury Bonds which were the subject matter of these Transactions were, in the main, Treasury Bonds acquired by Perpetual Treasuries Ltd at the aforesaid Treasury Bonds Auctions held in February 2015, September and October 2015, January and February 2016 and March 2016.

- (xi) The Audio Recording marked “**C277**” establishes that, Perpetual Treasuries Ltd sought to manipulate Yield Rates in the Secondary Market;
- (xii) In any event, the evidence of Mr. R.A.B. Dias of Pan Asia Bank Banking Corporation PLC, is to the effect that, Perpetual Treasuries Ltd sought to

manipulate Yield Rates in the Secondary Market and eventually sell Treasury Bonds, at low Rates to the EPF;

- (xiii) The Data extracted from Mr. Aloysius's mobile phone establishes that, Mr. Aloysius was in frequent telephonic contact with one or more officers in the EPF and with several other Dealers in institutions with which Perpetual Treasuries Ltd entered into Transactions which were very profitable to Perpetual Treasuries Ltd and, often, detrimental to the Counterparty. [Due to the fact that, this evidence was presented to us just before Hearings were terminated in order to prepare this Report and, therefore, these persons did not have an opportunity to provide an explanation with regard to such evidence, we do not name those persons in this Report];
- (xiv) There is evidence before us which establishes that, Perpetual Treasuries Ltd paid inducements to Dealers in the EPF and several other institutions with which Perpetual Treasuries Ltd entered into Transactions which were very profitable to Perpetual Treasuries Ltd and, often, detrimental to the Counterparty;
- (xv) The evidence before us establishes that, Perpetual Treasuries Ltd deleted the Recordings of telephone conversations and "crashed" its computer due to Perpetual Treasuries Ltd considering that, these telephone conversations and the Data on the computer were "*harmful*" to the interests of Perpetual Treasuries Ltd.

In this connection, the Chief Dealer of Perpetual Treasuries Ltd stated that, he considered as "*harmful*", conversations that would demonstrate wrongful conduct on the part of Perpetual Treasuries Ltd, such as: conversations concerning Perpetual Treasuries Ltd pushing Market Rates in a particular direction; conversations indicating collusion between Perpetual Treasuries Ltd and another party; conversations showing that Perpetual Treasuries Ltd was dealing at a Rate which was not the Market Rate; conversations showing that Perpetual Treasuries Ltd had inside information with regard to matters concerning the CBSL etc.

In this connection, we note that, in **FINANCIAL CONDUCT AUTHORITY vs. DA VINCI INVESTMENTS**, the Chancery Division held that, the question of whether a Defendant's behavior constituted "market abuse" [or "market manipulation"] was a purely objective question to be decided on the conduct of that person. Further, in the American case of **SEC vs. LORIN** too, it was held that "market manipulation" is to be inferred from the conduct of the person concerned. In the American case of **SEC vs.**

**SIERRA BROKERAGE SERVICES**, it was observed that, determining whether there has been “market manipulation” requires the fact-finder to make inferences drawn from a mass of factual detail because findings must be gleaned from patterns of behavior, from apparent irregularities and from trading data.

In this background, we consider that, the aforesaid evidence establishes that, Perpetual Treasuries Ltd has made the major part of its Profits by means of using “inside information” [“price sensitive information”] and by means of “market manipulation”.

We also consider it is reasonable to take the view that, the Total Net Cash Inflows [monetary gains made] aggregating to Rs. 8,529,964,495/61/- received by Perpetual Treasuries Ltd from the Sales of Treasury Bonds bearing seven specified ISINs to the EPF and other Statutory Bodies and Government Institutions, during the period relevant to our Mandate, has been made, by using “inside information” [“price sensitive information”] and by “market manipulation”.

Since the evidence establishes that that, Perpetual Treasuries Ltd has made the major part of its Profits of Rs.11,145,221,479/99/-, by using “inside information” [“price sensitive information”] and by ”market manipulation”, we consider that, Perpetual Treasuries Ltd has knowingly violated and acted in breach of the provisions of the Code of Conduct for Primary Dealers, which has been issued by the CBSL under and in terms of the Regulations issued under the Registered Stock and Securities Ordinance No. 7 of 1937.

We are of the view that, aforesaid violation and breach, by Perpetual Treasuries Ltd, of the Code of Conduct for Primary Dealers, renders Perpetual Treasuries Ltd liable for prosecution for an offence in terms of the aforesaid S: 56A(1) of the Registered Stock and Securities Ordinance, or any other offences under the Penal code.

We are of the view that, the quantum of the sum to which Perpetual Treasuries Ltd gained or benefitted from “inside information” [“price sensitive information”] and “market manipulation”, can be reasonably estimated at Rs. 8,529,964,495/61/-. We consider that the “*monetary gain*” referred to in Section 56A, would be Rs. 8,529,964,495/61.

We are of the view that, the Hon. Attorney General or other appropriate authorities should consider instituting Proceedings against Perpetual Treasuries Ltd, in terms of the aforesaid provision of the Law and, in the event of a conviction being entered by a learned Magistrate after Summary Trial, Perpetual Treasuries Ltd could be held liable to a fine equivalent to twice the value of that sum of Rs. 8,529,964,495/61.

Further, we are of the view that, the evidence placed before us establishes that, Mr. Arjun Aloysius and Mr. Kasun Palisena were both parties to and directly responsible for the aforesaid violation and breach of the Code of Conduct for Primary Dealers, by Perpetual Treasuries Ltd and, therefore, fall within the scope of the description *“every person who at the time of the commission of the offence was a director or an officer of the body corporate shall be deemed to be guilty of that offence.”* in Section 56B of the Registered Stock and Securities Ordinance No. 7 of 1937.

Upon the aforesaid evidence and in the aforesaid circumstances, we conclude that:

- (i) The evidence establishes that, Perpetual Treasuries Ltd has made the major part of its Profits by using “inside information” [“price sensitive information”] and by means of “market manipulation”;
- (ii) It is reasonable to take the view that, the estimated Total Net Cash Inflows [monetary gains] aggregating to Rs. 8,529,964,495/61/- received by Perpetual Treasuries Ltd from the Sales of Treasury Bonds, to the EPF and other Statutory Bodies and Government Institutions, during the period relevant to our Mandate, has been made by using “inside information” [“price sensitive information”] and by “market manipulation”;
- (iii) We are of the view that, in the aforesaid circumstances, Perpetual Treasuries Ltd has made monetary gains in this sum of Rs. 8,529,964,495/61 by using “inside information” [“price sensitive information”] and by “market manipulation” and, thereby, knowingly violated and acted in breach of the provisions of the Code of Conduct for Primary Dealers, which has been issued by the CBSL under and in terms of the Regulations issued under the Registered Stock and Securities Ordinance No. 7 of 1937;
- (iv) We are of the view that, in the aforesaid circumstances, the Hon. Attorney General or other appropriate authorities should consider whether Perpetual Treasuries Ltd is liable for prosecution for an offence in terms of the aforesaid S: 56A(1) of the Registered Stock and Securities Ordinance and, in the event of a conviction being entered by a learned Magistrate after Summary Trial, Perpetual Treasuries Ltd could be held liable to a fine equivalent to twice the value of that sum or in such other sum as the Court may determine.
- (v) We are also of the view that, the evidence placed before us establishes that, Mr. Arjun Aloysius and Mr. Kasun Palisena were both parties to and

directly responsible for the aforesaid violation and breach of the Code of Conduct for Primary Dealers, by Perpetual Treasuries Ltd and, therefore, fall within the scope of the description “*every person who at the time of the commission of the offence was a director or an officer of the body corporate shall be deemed to be guilty of that offence.*” in Section 56B of the Registered Stock and Securities Ordinance No. 7 of 1937.

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## CHAPTER 24

### **PERPETUAL TREASURIES LTD AND HON. RAVI KARUNANAYAKE, MP - THE APARTMENT AND THE MEETINGS AT MINISTRY OF FINANCE IN MARCH 2016**

The evidence placed before us establishes that, while Hon. Ravi Karunanayake, MP was the Minister of Finance, he and his family lived in an Apartment which had been leased by the Owner, Ms. M.A. Vinodini, to M/S Walt and Row Associates (Pvt) Ltd, for a period of six months from 12<sup>th</sup> February 2016 to 11<sup>th</sup> August 2016, for a total Lease Rental of Rs. 7.3 million for the six-month period of the Lease and also, upon a Deposit of Rs. 2.9 million.

In this connection, the Lease Agreement No. 4187 dated 09<sup>th</sup> February 2016 and attested by M.F. Sproule, Notary Public, was marked “**C199F**”. This Lease Agreement establishes that, the Condominium Property leased to Walt and Row Associates (Pvt) Ltd was inclusive of the Apartment Units Y/F5/U2 and Y/F5/U3 of the Condominium Building which is known as the “Monarch Apartment” and that it is situated in Colombo 3.

The evidence establishes that, Walt and Row Associates (Pvt) Ltd [and its Associate Company on behalf of Walt and Row Associates (Pvt) Ltd] paid the aforesaid Lease Rental and Deposit aggregating to Rs. 10.2 million to the Owner, Ms. M. A. Vinodini. In this connection: Sampath Bank Cheque No. 109136 for Rs. 7,200,000/- issued by Walt and Row Associates (Pvt) Ltd and deposited in the Bank Account of Ms. M. A. Vinodini, was marked “**C199H**”; PABC Cheque No. 527173 for Rs. 3.010 million issued by Perpetual Capital (Pvt) Ltd [which is an Associate Company of Walt and Row Associates (Pvt) Ltd] and deposited in the Bank Account of Ms. M. A. Vinodini, was marked “**C199I**”. Further, we note that, in the Attestation to the Lease Agreement marked “**C199F**”, the Notary Public has stated that, the aforesaid monies were “*paid by the Lessee to the Lessor*” – *ie*: by Walt and Row Associates (Pvt) Ltd to Ms. M.A. Vinodini.

The evidence also establishes that, at the end of the first six-month period of the Lease, the Owner, Ms. M.A. Vinodini had extended the Lease to Walt and Row Associates (Pvt) Ltd, for a period of a further six months - *ie* until mid-February 2017 - on the same terms.



However, the evidence establishes that, in September 2016, Ms. M. A. Vinodini sold and transferred the aforesaid Apartment to Global Transportation and Logistics (Pvt) Ltd, for a Sale Price of Rs. 165 million, by the Deed of Transfer No. 4936, dated 30<sup>th</sup> September 2016 attested by G. G. Arulpragasam, Notary Public, which was marked “C199L”.

Further, the evidence establishes that, Global Transportation and Logistics (Pvt) Ltd is a Company which is owned and controlled by members of the family of Hon. Ravi Karunanayake, MP. In fact, Mr. Karunanayake was a Director of Global Transportation and Logistics (Pvt) Ltd until he was appointed a Minister in January 2015. The Directors of Global Transportation and Logistics (Pvt) Ltd in 2016 were Mr. Karunanayake’s wife and daughter, a Mr. Lakshmi Kanthan and a Mr. Lakshmi Shankar.

We note that, the evidence establishes that, Global Transportation and Logistics (Pvt) Ltd paid the Sale Price of Rs. 165 million to Ms. M. A. Vinodini by using the Proceeds of a Loan obtained from Seylan Bank PLC.

When Mr. Karunanayake was asked how this Loan was repaid to Seylan Bank PLC, he said that, his family made the arrangements and that he was unaware of the precise nature of those transactions. It is relevant to mention here that, when Mr. Sinniah, who is the Chief Financial Officer of Global Transportation and Logistics (Pvt) Ltd gave evidence, he said that, the Loan was repaid using monies given to Global Transportation and Logistics (Pvt) Ltd by Mr. Lakshmi Kanthan who is a Director of the Company. Mr. Sinniah said that, Mr. Lakshmi Kanthan, who lives in the United Kingdom, visited Sri Lanka on two or more occasions and brought the money required to pay the Loan, in bags of cash which were kept in the safe of Global Transportation and Logistics (Pvt) Ltd.

The evidence establishes that, from February 2016 till end September 2016, Mr. Karunanayake and his family continued to occupy the aforesaid Apartment which had been leased by Walt and Row Associates (Pvt) Ltd.

Thus, it has been clearly proved that, for a period of 09 months, Mr. Karunanayake and his family lived in an Apartment which had been taken on lease by Walt and Row Associates (Pvt) Ltd, which paid the Lease Rentals for that Apartment to the Owner of the Apartment, during the period Mr. Karunanayake and his family lived in that Apartment.

We note that, the evidence establishes that, Walt and Row Associates (Pvt) Ltd is a Company which is a member of the “Perpetual Group Companies”/Free Lanka Group” and that, as at 14<sup>th</sup> December 2015, the sole Shareholder of Walt and Row Associates

(Pvt) Ltd was Perpetual Capital Holdings (Pvt) Ltd, which is, ultimately, fully owned by Mr. Arjun Aloysius and Mr. Geoffrey Aloysius. We note that, as at 14<sup>th</sup> December 2015, the Directors of Walt and Row Associates (Pvt) Ltd were Mr. Arjun Aloysius, Mr. Geoffrey Aloysius and Mr. Suren Muthurajah.

In these circumstances, it is clear that, Walt and Row Associates (Pvt) Ltd is an Associate Company of Perpetual Treasuries Ltd and that, it is owned and controlled by Mr. Arjun Aloysius and Mr. Geoffrey Aloysius.

In these circumstances, grave questions arise as to the propriety of Hon. Ravi Karunanayake, MP and his family, at a time when Mr. Karunanayake was the Minister of Finance, residing in an Apartment which was paid for by a Company which is a close Associate of a Primary Dealer and which is owned and controlled by the Owners and Directors of that Primary Dealer.

In fact, when Hon. Ravi Karunanayake, MP gave evidence before us, he agreed that it was inappropriate, for a Minister of Finance, to obtain such a benefit from a Primary Dealer or an Associate Company of a Primary Dealer.

However, Mr. Karunanayake stated that, he was initially unaware that, the Apartment has been leased by Walt and Row Associates (Pvt) Ltd and that he has not been informed of this fact, till much later.

We find it difficult to believe that, Hon. Ravi Karunanayake, MP was, in fact, unaware that, the Apartment in which he had his family moved into in February 2016, had been leased by Walt and Row Associates (Pvt) Ltd and that, Walt and Row Associates (Pvt) Ltd had paid the Lease Rental to the Owner of the Apartment.

We also have no doubt that, Hon. Ravi Karunanayake, MP was well aware that, Walt and Row Associates (Pvt) Ltd is an Associate Company of Perpetual Treasuries Ltd and that it is owned and controlled by Mr. Arjun Aloysius and Mr. Geoffrey Aloysius.

In fact, in reply to the Question asked by learned Senior Additional Solicitor General, *“Now Mr. Karunanayake, did you know that Walt and Row had paid eleven odd million rupees for the 6 months lease rental, Did you know that ?”*, Mr. Karunanayake replied, *“Yes. Lordships, that was not relevant because I asked my family. It was Nahil Wijesuriya’s daughter and the payment was going to be made by the family. Subsequently I did ask them and they basically produced a receipt by saying it was paid to the Accountant of the Company. That original lease here.”*

When the Commission of Inquiry then asked Mr. Karunanayake, *“To the Company ? So only company that’s involved is Walt and Row (Pvt) Ltd, Company ?”*, Mr. Karunanayake replied, *“Yes, I presumed so Your Lordship.”*

We note that, although Hon. Ravi Karunanayake, MP subsequently claimed that his family had reimbursed Walt and Row Associates (Pvt) Ltd for the Lease Rentals paid to the Owner of the Apartment, Ms. M.A. Vinodini, Mr. Karunanayake did not produce any evidence to show that any such reimbursements had, in fact, been made to Walt and Row Associates (Pvt) Ltd.

We consider it relevant to reproduce here some of the relevant evidence when the Commission of Inquiry questioned Hon. Ravi Karunanayake, MP:

“Q: ..... so you would then probably have no hesitation in acknowledging that the Minister of Finance in that matter or any other Cabinet Minister who is vested with the vitally important state function must act in accordance with the duty of “uberrimae fidei” which you are obviously aware of as a Chartered Accountant?

A: Yes certainly.

Q: *Uberrimae fidei* and keeping in mind concept of public trust ?

A: Yes, absolutely.”.

and

“Q: Mr. Karunanayake, you said your house was at Rajamal Mawatha Avenue ?

A: Rajamalwatte Road, on the main straight right.

Q: Battaramulla. And you said you are going in to a long period of renovation ?

A: That’s right. Not long we thought only for 6 months.

Q: Everybody thinks that right ? You said you and your family were looking for a house ?

A: My family was looking.

Q: But Mr. Karunanayake, since you have made it very clear that you are very much of a family man.

A: That’s right.

Q: I would assume that you also wanted to go to another house ?

A: *Sure, no question.*

Q: *You are a close family ?*

A: *God willing yes.*

Q *Nice to see. So one assumes that close families basically known what each other does other than when it comes to official matters ?*

A: *Beg your Pardon.*

Q: *Close families know what each member of the family is doing unless it relates to official matters which are no concern of anybody else but the person doing the official matter ? .*

A: *That's right.*

Q: *Now when your family was looking for an apartment you would have naturally been interested ?*

A: *Yes.”.*

and

“Q: *Thereafter you said that your wife went and inspected the Wijesuriya Apartment ?*

A: *Yes.”*

and

“Q: *You knew it was taken on lease?*

A: *Yes.*

Q: *Did you find out from who it was leased ?*

A: *Yes. Your Lord, I asked from my family from whom the house is and they said Nahil's daughter. They said and the family was paying for it.*

Q: *Your family was paying for that ?*

A: *Oh... yes.*

Q: *So you say you family was paying 10.5 million rupees ?*

A: *Paying for it. I do not know the figure that was there”.*

and

“Q: *That’s a different matter. You are living in that apartment, you take responsibility for where you live, correct ? You will not live in the house of somebody who*

A: *That’s why I got it clear that it is Nahil’s daughter. So I knew it was a decent place.*

Q: *Did you ask your family whether they have leased it from Nahil’s daughter ?*

A: *Yes, they said that there taking the house which is owned by Nahil.*

Q: *In which case, if they had entered into a lease agreement ? They had not entered into a lease agreement with Nahil’s daughter, then your family was lying to you ?*

A: *Beg your pardon ?*

Q: *Is that correct ?*

A: *Beg your pardon ?*

Q: *Mr. Karunanayake, nobody in this country will lease out a valuable apartment at Monarch to another person without a lease agreement ?*

A: *Yes.*

Q: *Right. So you say your family told you that they are leasing it direct from Nahil's Wijesuriya's daughter ?*

A: *No, no, they didn’t say.*

Q: *Then what did they say ?*

A: *They said that the flat is own by Nahil Wijesuriya’s daughter.*

Q: *So therefore there has to be a lease agreement ?*

A: *Yes.*

Q: *Did you ask whether they had leased this out from her ?*

A: *I didn't ask the question of who was leasing ? Because I thought the family is leasing it out.*

Q: *Right.*

A: *Subsequently, I was told that she was not willing to give a politician. And owing to that fact, she basically said that she will give it to anybody else except.*

Q *Mr. Karunanayake, are you asking us to believe that you moved into that apartment and lived there for 9 months and didn't inquire as to the identity of the person who had leased the apartment ?*

A: *Yes because the family said it was being leased form.*

Q: *That is what you say now, right ?*

A: *Yes.*

Q: *And you are, that is your explanation of the events ?*

A: *That is the real truth."*

and

"Q: *Right. Now you as Minister of Finance have a great interest in the capital markets ? Whether it be equity or Government security ?*

A: *So was capital market.*

Q: *Whether it be equity of [or] Government Security.[Securities] You are aware that the Perpetual Group has substantial involvement both in the Government securities market, the capital markets, through Perpetual Capitals and its in the excise field ? You are aware of that ? You cannot be not aware ?*

A: No.

Q: *So if you had known that this apartment to you is being in leased out by a member of the Perpetual Group of Companies would you consider that relevant ?*

A: *Certainly now it will definitely. I mean if I knew that it was the case.”.*

and

“Q: *If you had known that ?*

A: *Well Your Lordship, If I honestly answer that, yes, I mean I am going through aggravation owing to that.*

Q: *Do you recognize that ?*

A: Yes.

Q: *You staying in an apartment that was being paid for by the Perpetual, if it was been paid for by the Perpetual Capital Group, is completely inappropriate behavior for a Minister of Finance ?*

A; *Yes. But I didn't know that.*

Q: *If you knew that ?*

A: Yes.

Q: *You say that you paid, your family paid eleven million rupees for this apartment ?*

A; *No. It was paid 12.5 million.*

Q: *12.5 million. Thank you for correcting. 12.5 million rupees for this apartment. Now do you know that in fact, the payments were made by Walt and Row Private Limited and Perpetual Capital ?*

A: *Absolutely not.*



Q: *Right. But in fact we have the cheques issued by Seylan Bank and Sampath Bank which prove that the payments were made by these two entities ? By Walt and Row (Pvt) Ltd. & Perpetual Capital ?*

A: *Yes I subsequently found that.*

Q: *Now if such payments were made, you agree that that is also entirely incorrect behavior for a Minister of Finance.*

A: *Not a Finance Minister, I didn't get involved in the lease.*

Q: *Doesn't matter. You were living in that apartment ?*

A: *Yes.*

Q: *You were taking the benefit of those payments, if those payments were made...*

A: *No,no,no. I am sorry to say that, It was, I specifically asked the family if it was paying for it, I got the receipt here that the reimbursement has taken place.*

Q: *From which company ?*

A: *Beg your Pardon ?*

Q: *From which company was the reimbursement made according to you ?*

A: *Investment made ?*

Q: *The Reimbursement ?*

A: *By the family.*

Q: *By the family ?*

A: *Yes.*

Q: *So where did this money come from Mr. Karunanayake ?*

A: *Ah. Lordship, I mean company, my family, my daughter all of them have.*

Q: *I am asking you for us ordinary citizens 12.5 million rupees is a lot of money ? Where did the money come from to pay for this ?*

[SASG: *No, and whom did you reimburse ? A: We reimbursed the Accountant of the]*

Q: *That is understood, you reimbursed Walt and Row according to you and Perpetual Capital ? I am asking where did you get the money ?*

A: *Well Lordship there is cash in hand of the company which is therefore my family..*

Q: *so you would have accounting entries in those companies ? At that time ?*

A: *Family, my daughter is the one who basically had collected and paid the this thing off Because they are all mutual friends.*

Q: *In that case Mr. Karunanayake there will be bank entries debits to bank accounts which reflect the payment of these sums ?*

A: *Not necessary.*

Q: *Are you saying that you have and your family have as much that amount in cash lying around like Mr. Sinniah ?*

A: *Well, the family that basically said was, they paid the money. Whether it was loaned or whether it was money they had, I didn't basically, I only saw the receipt that was paid.*

Q: *That is what you're saying ?*

A: *Yes.*

Q: *Alright. Now and in that manner, in that what you now say this total ignorance, you stayed in that apartment from February till around September right ? Till September and you saw fit not to make any inquiries as to who was paying for this ?*

A: *No, there was a accusation in Parliament and at that time it was July, on the everything basically got to be known to me by the family.*

Q: *Thereafter you are aware that Global Transportation and Logistics decided to purchase this apartment ?*

A: *That's right Your Lordship.*

Q: *We have gone in to the balance sheets of Global Transportation and Logistics and we are aware that it was a, it had a operational profit, as you correctly said at the beginning over of couple of years but there were substantial bank borrowings, carried forward losses and that sums of money of that amount of hundred and sixty five million was not a, was a big decision for the company to make right ? Now we were told by Mr. Sinniah that the Company GTL purchased it for putting up there visitors, foreign visitors, that was the stated purchase, reason for GTL purchased in the apartment. We are also told by Mr. Sinniah that no foreign visitor ever stayed in that apartment because you and your family were occupying it.*

A: *Lordship, I think what was mentioned which was checked out, for the bank, it was mortgaged to the bank and taken and one of the things that was there was it would be rented in future but until we were, renovation was extended so we were staying there. The Chairman who happens to be Mr. T.B. Lakshmi Kanth has been with us from 20 years and when this were discussed with them, he had come up front and said go ahead and purchase this because when he comes he comes and stays with us. And that's the relationship be exists and...*

Q: *Fine, ok.*

A: *So he basically had informed my family that go ahead and buy and he had given a undertaking that he will ensure that it will be paid for."*

and

“Q: *..... Now, Mr. Karunanayake you said at the beginning when in the course of, when I was questioning you, that apartments of this kind of value are never leased without lease agreements ?*

A: *Yes.*

Q: *Secondly, you would have no doubt if your wife and daughter would have undoubtedly known even if you didn't know that they did not enter into a lease agreement ?*

A: *Beg your pardon ?*

Q: *Your wife and daughter or your other children would have undoubtedly known that none of them entered into a lease agreement ?*

A: *Yes.*

Q: *Had to know, no ?*

A: *Yes. Well the family would have been.”.*

and

“Q: *Mr. Karunanayake, that’s what you say. My point that you still haven’t given me an answer for, is that your family knew that they had not entered into a lease agreement, the members of your family knew ?*

A: *To be frank, that particular question I can’t answer. They didn’t know or whether...*

Q: *Had to know, because they had not signed a lease agreement. For the 9 months you stayed there, your wife did not sign a lease agreement ?*

A: *But Your Lordship, there was no necessity because the reimbursed the money.*

Q: *That’s not the point. You did not sign a lease agreement, your wife did not sign a lease agreement, your daughter Onella didn’t sign a lease agreement, right, Ok ? You said that your wife and daughter paid, this is your evidence. Your wife and daughter paid the money according to you to Walt and Row (Pvt) Ltd. or some other company.*

A: *Paid the accountant of the company.*

Q: *Accountant, yes, obviously.*

A: *Yes.*

Q: *Therefore they had to know that there was a lease agreement would have been with whomever they were paying the lease money to.*

A: *Obviously.*

Q: *Logical steps ?*

A: Yes.

Q: *Now your wife and you, you and your wife have been closely associated for 25 or 30 years ?*

A: Yes.

Q: *It is public knowledge that Perpetual Treasuries, Perpetual Capital and the Excise Company whatever it is, are all companies which have directly involved in fields which you as Minister of Finance have responsibility for ?*

A: *Well, your Lordship, that question can be posed to me if I knew, but the family doesn't know.*

Q: *Are you seriously telling us that your wife and your daughter both of whom are educated and you know people of some, of stature are unaware given a especially given the publicity that has been in place, that Perpetual Capital, Perpetual Treasuries and the Excise Company whatever it is, the spirits company, have some involvement with areas which would be of concern to you as Minister of Finance ?*

A: *No, genuinely they wouldn't have known.*

Q: *Is that what you are telling to us ?*

A: *Definitely. Because I mean they are not exposed to they are not basically knowing what is going on the political circle.*

Q: *So you have no further explanation to give to this commission ?*

A: *Lordship, that is the truth and nothing but...*

Q: *We are anxious Mr. Karunanayake*

A: *Yeah I know...*

Q: *We have given you every opportunity to say what you have to say ?*

A: *Certainly.*

Q: *Now you have said this. Basically what you are saying is I knew nothing. I lived there for 9 months, but I knew nothing ?*

A: *Yes. I knew nothing was up to the time that this particular things took place in May, June in Parliament.*

Q: *That is when Mahindananda Aluthgamage made a noise ? Ok.*

A: *That's right.*

Q: *So you are saying that, so I still want to know this ? I find this frankly baffling. You knew nothing although you lived in the apartment for 9 months but you also admit that if you had known you would never have done it ?*

A: *Certainly with also explanation.*

Q: *So you admit that there if you had, if the renting of the apartment from an associate of Perpetual Treasuries,*

A: *Yes.*

Q: *Walt and Row which is directly involved in the Excise area would be, amount to a conflict of interest ?*

A: *What you are proposing, yes certainly, but even Walt and Row, I didn't know what they were doing even."*

We are of the view that the evidence before us suggests that, Hon. Ravi Karunanayake, while he was Minister of Finance derived a substantial benefit from the Lease Payments made by Walt and Row Associates (Pvt) Ltd, which is an Associate Company of Perpetual Treasuries Ltd and which is owned and controlled by the same persons who own and control Perpetual Treasuries Ltd.

We are of the view that, these facts and circumstances should be examined by the Commission to Investigate Allegations of Bribery or Corruption, who may determine whether appropriate action should be taken against Hon. Ravi Karunanayake, MP, under the Bribery Act or other appropriate legislation.

At this point, we think it is necessary to refer to the meetings held at the Ministry of Finance on 28<sup>th</sup> March 2016 and 30<sup>th</sup> March 2016, where Hon. Ravi Karunanayake, MP, the then Minister of Finance, gave instructions to the three State Banks to place

Bids at specified low Yield Rates and for low amounts, at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

We have earlier, concluded that, in view of the undesirably high Yield Rates which then prevailed, it was reasonable and justifiable for Hon. Ravi Karunanayake, MP, the then Minister of Finance, to wish to bring these Yield Rates down at these Treasury Bond Auctions. We have also taken the view that, since successive Governments have been known to use the state-owned Peoples' Bank, National Savings Bank and Bank of Ceylon to implement some policy measures and it is not *per se* irregular for a Government to do so, we cannot find fault with Hon. Ravi Karunanayake, MP, the then Minister of Finance for convening these meetings and giving the aforesaid instructions to the three State Banks.

We have previously examined the effects those instructions had on the results of the two Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016. We have also held that, Perpetual Treasuries Ltd had received 'inside information' with regard to the Treasury Bond Auction held on 29<sup>th</sup> March 2016, which was utilized by Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds at that Auction.

However, we have also earlier concluded that, there is no evidence before us which suggests that, Hon. Ravi Karunanayake, MP or the Ministry of Finance advised the CBSL that the aforesaid instruction had been given to the three State Banks.

We have held that, any such omission on the part of Hon. Ravi Karunanayake, MP or the Ministry of Finance to inform the CBSL is likely to have given Perpetual Treasuries Ltd an advantage at the Treasury Bond Auction held on 29<sup>th</sup> March 2016.

We note that, these meetings were held at the Ministry of Finance and Hon. Ravi Karunanayake gave these instructions, soon after he moved into the Apartment for which Walt and Row Associates (Pvt) Ltd paid the Lease Rental.

We consider that this is a matter that may also be taken into account by the Commission to Investigate Allegations of Bribery or Corruption, in the event it proceeds to determine whether appropriate action should be taken against Hon. Ravi Karunanayake, MP, under the Bribery Act or other appropriate legislation.

Finally, we note that, in the course of his evidence, Hon. Ravi Karunanayake, MP stated, on oath, that he had no personal, business or official relationship with Mr. Arjun Aloysius. In this connection, we reproduce below, the relevant evidence when Mr. Karunanayake was Cross Examined by learned Senior Additional Solicitor General:

*"Q: Since when have you been actually associating Mr. Arjun Aloysius?"*



A: *Well I can't remember because I don't know at what time. Whether school or whether before or what it is. You ask a specific association?*

Q: *Are you saying that you did not have a personal relationship with Mr. Aloysius ?*

A: *No.*

Q: *You did not have a personal relationship ?*

A: *Well there was no necessity to have a personal relationship.*

Q: *Did you have a business relationship with Mr. Aloysius ?*

A: *Absolutely not.*

Q: *Did you have a official relationship with Mr. Arjun Aloysius ?*

A: *No.*

Q: *Then what type of a relationship did you have with Mr. Aloysius ?*

A: *Once again I basically say it is, I mean just because I assume executive office should I basically throw away people's friendship that has been there ? When they call we as politicians send people to creates the jobs that are there. We basically go on that basis."*

However, we note that, the data in the "Forensic Report on Communication Information Analysis" prepared by the Criminal Investigation Department and marked "**C350**" [and related documents] suggests that, there has been extensive telephonic communication between Hon. Ravi Karunanayake, MP and Mr. Arjun Aloysius during the period stated in that Report. We note that, the Additional Written Submissions filed on behalf of Mr. Karunanayake on 28<sup>th</sup> November 2017, do not dispute that, Hon. Ravi Karunanayake, MP and Mr. Arjun Aloysius had some telephonic communications with each other during that period.

In these circumstances, we note that, the Hon. Attorney General or other appropriate authorities could also consider whether the aforesaid evidence given by Hon. Ravi Karunanayake is shown to have been incorrect and, if that is the case, whether there are grounds for prosecutions under Section 179 and/or Section 188 of the Penal Code or other relevant provision of the Law, read with Section 9 of the Commissions of Inquiry Act No. 17 of 1948.

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## CHAPTER 25

### **ARJUNA MAHENDRAN - WAS THERE A CONFLICT OF INTEREST DUE TO HIS RELATIONSHIP WITH ARJUN ALOYSIUS? DID SOME OF ARJUNA MAHENDRAN'S ACTIONS ASSIST PERPETUAL TREASURIES LTD?**

#### **Was there a conflict of interest for Arjuna Mahendran due to his relationship with Arjun Aloysius?**

It hardly needs to be said here that, Primary Dealers play a key role in the raising of Public Debt by the CBSL and play an active role in the Government Securities Market, which the CBSL has jurisdiction over. It also hardly needs to be emphasized that, the Governor of the CBSL is called upon to take decisions which affect Primary Dealers and to exercise a supervisory role over Primary Dealers.

In light of these facts, there can no doubt that, a Governor of the CBSL has a duty to not allow himself to be placed in a situation where he has a relationship with a Primary Dealer or with any person who has a material beneficial interest in a Primary Dealer or who may derive a material financial benefit from a Primary Dealer or who is in a position to control the operations of a Primary Dealer.

It is useful to draw a parallel with the Companies Act No. 7 of 2007, since it can be persuasively argued that, the Governor of the CBSL has some of the attributes of a Chairman/Director of a Company.

In this connection, Section 191 (1) of the Companies Act stipulates that, "*Subject to the provisions of subsection (2), for the purposes of this Act a director of a company is interested in a transaction to which the company is a party if, and only if, the director ..... (d) is the parent, child, or spouse of another party to or person who will or may derive a material financial benefit from the transaction; or (e) is otherwise directly or indirectly materially interested in the transaction.*".

We consider that, the principle set out in in Section 191 (1) (d) and (e) of the Companies Act gives good reason to take the view that, Mr. Mahendran would be considered by the Company Law to be "*interested*" in transactions between the CBSL and Perpetual Treasuries Ltd, because:

- (i) Mr. Arjun Aloysius is married to Mr. Mahendran's only daughter and is Mr. Mahendran's only son-in-law and they lived in the same house;
- (ii) Mr. Arjun Aloysius would derive a "*material financial benefit*" from Transactions entered into between the CBSL and Perpetual Treasuries Ltd which were profitable to Perpetual Treasuries Ltd, because Mr. Arjun Aloysius, together with his father, had the entire beneficial ownership of Perpetual Treasuries Ltd and was in control of Perpetual Treasuries Ltd;
- (iii) In any event, as established by the evidence, Mr. Arjun Aloysius was "*directly or indirectly materially interested*" in Transactions entered into between the CBSL and Perpetual Treasuries Ltd, since he was in control of the day-to-day operations of Perpetual Treasuries Ltd and was a key decision maker in Perpetual Treasuries Ltd;
- (iv) In these circumstances, the relationship of father-in-law and son-in-law between Mr. Mahendran and Mr. Arjun Aloysius should be considered as one falling within the circumstances contemplated by Section 191 (d) and (e) of the Companies Act and it would be artificial to argue that, the fact that Mr. Aloysius is Mr. Mahendran's 'son-in-law' and not his 'son', makes a difference.

As we observed in Chapter 1 of this Report, we consider that, the Governor of the CBSL is bound to observe the duty of good faith and act in a fiduciary capacity when he performs the functions of his office. We consider that the Governor can be correctly regarded as a trustee of the interests of the CBSL who, as Palmer states [Company Law, 24<sup>th</sup> ed. Volume I at p. 936], has to act *bona fide* in the best interests of the CBSL.

Further, as we observed in Chapter 1, the aforesaid character of the office of a Governor of the CBSL place a duty on the Governor to refrain from placing himself in a position where there is a conflict of interest between his personal interests and his duties to the CBSL. As Palmer observes [at p. 943] "*Like other fiduciaries directors are required not to put themselves in a position where there is a conflict (actual or potential) between their personal interests and their duties to the company.*"

In these circumstances, the Commission of Inquiry asked Mr. Mahendran whether he recognised that, there was a potential for a conflict of interest arising from the fact that he was the Governor of the CBSL and his son-in-law was closely associated with the Primary Dealer, named Perpetual Treasuries Ltd.

Thus, the Commission of Inquiry asked Mr. Mahendran whether, in these circumstances, "*And do you still say you do not see a potential of a conflict of interest?*", Mr. Mahendran replied, "*Nothing that I couldn't handle, My Lord.*". . When he was

then asked, *"You felt you could handle it?"*, Mr. Mahendran replied, *"I felt I could handle it."*

The Commission of Inquiry then asked Mr. Mahendran, *"On paper. My interest on paper? On paper would it look like a fairly conflict of interest? We want your views?"*, Mr. Mahendran replied, *"Yes."*

When the Commission of Inquiry asked Mr. Mahendran, *"I just want to know what your personal views on these are?"*, Mr. Mahendran said, *"My personal views on these are, if you if one conducts activity in a transparent manner, where it is clearly stated that any potential for conflict is dealt with in a manner that one cannot be accused."*

When the Commission of Inquiry then asked Mr. Mahendran, *"Now you have ....., given you of plenty of ....., I asked many times in different ways and you right along said that you did not see any necessary conflict of interest arising from Arjun Aloysius's interest in PTL. And you being his father-in-law?"*. Mr. Mahendran said, *"My Lord, there was a potential for conflict of interest. But, that could always be mitigated."*

The Commission of Inquiry then asked Mr. Mahendran, *"So, you felt that, you would be able to handle it, by keeping it at arm's length?"*, and Mr. Mahendran replied, *"Yes, My Lord."*

In fact, when the Commission of Inquiry asked Mr. Mahendran whether he had, thereby, undertaken to be more virtuous than "Caesar's wife", he replied in the affirmative.

Thus, as stated earlier, Mr. Mahendran has unequivocally admitted that there was a potential conflict of interest which arose from the relationship he had with his son-in-law.

Further, we note the evidence establishes that, when Mr. Mahendran was appointed the Governor of the CBSL, the Hon. Prime Minister had identified the likelihood that a conflict of interest may arise from that fact that Mr. Arjuna Mahendran's son-in-law was associated with the Primary Dealer named Perpetual Treasuries Ltd. Therefore, the Hon. Prime Minister had directed Mr. Mahendran to ensure that Mr. Aloysius resigns from the post of Director of Perpetual Treasuries Ltd and to ensure that, Mr. Aloysius severs all contact with Perpetual Treasuries Ltd and disposes of his shareholding in Perpetual Treasuries Ltd.

The Hon. Prime Minister further stated that, Mr. Mahendran has assured him that Mr. Aloysius would not, under any circumstances, play any role in Perpetual Treasuries Ltd In fact, the Hon. Prime Minister stated that, Mr. Mahendran reiterated those assurances on several occasions.

In the aforesaid circumstances, there is no doubt that, Mr. Mahendran full well recognized that, there was potential for a grave conflict of interest arising from the fact that he was the Governor of the CBSL and his son-in-law was closely associated with the Primary Dealer named Perpetual Treasuries Ltd.

We note that, having admitted that there was a potential for conflict of interest, Mr. Mahendran went on to state that, he was confident that he could “*handle it*” and avoid a conflict of interest arising by performing his duties as Governor “*in a transparent manner*” and by keeping any decisions affecting Perpetual Treasuries Ltd “*at arm’s length*”.

Before we move on to examining, in the next part of this Chapter, whether Mr. Mahendran did, in fact, perform his duties as Governor “*in a transparent manner*” and keep any decisions affecting Perpetual Treasuries Ltd “*at arm’s length*” or whether, in fact, Mr. Mahendran acted in a manner which benefitted Perpetual Treasuries Ltd, we are obliged to note here that, even though Mr. Mahendran had repeatedly assured the Hon. Prime Minister that, Mr. Mahendran would ensure that Mr. Arjun Aloysius severed all connections with Perpetual Treasuries Ltd, Mr. Mahendran failed to honour his word.

Instead, as stated earlier, Mr. Arjun Aloysius continued to be closely involved in the day-to-day operations of Perpetual Treasuries Ltd, was a key decision-maker at Perpetual Treasuries Ltd and was in control of Perpetual Treasuries Ltd. Mr. Aloysius also did not dispose of his beneficial ownership of Perpetual Treasuries Ltd.

Mr. Mahendran had to be aware of the role Mr. Aloysius continued to play in Perpetual Treasuries Ltd. It would be artificial to contend otherwise, especially since Mr. Aloysius and Mr. Mahendran lived in the same house.

### **Did some of Arjuna Mahendran’s actions assist Perpetual Treasuries Ltd?**

Firstly, we note, the usual and salutary practice is that, a Chairman/Director or other member of a Board of an Organization who faces a potential conflict of interest must disclose that conflict of interest to the Board and recuse himself from any decision which could be affected by that conflict of interest.

However, there is no record of Mr. Mahendran having formally advised the Monetary Board that, there was a potential for a conflict of interest arising from the fact that his son-in-law was closely associated with the Primary Dealer named Perpetual

Treasuries Ltd. There is also no record of Mr. Mahendran having recused himself from decisions which affected Perpetual Treasuries Ltd.

Secondly, we note that, a grave and damaging conflict of interest arose when Mr. Mahendran intervened at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and directed that Bids to the value of Rs. 10.058 billion be accepted and, thereby, enabled Perpetual Treasuries Ltd to obtain Treasury Bonds to the value of Rs.5 billion at high Yield Rates.

The fact that Perpetual Treasuries Ltd would obtain a high value of Treasury Bonds at high Yield Rates as a result of Mr. Mahendran's aforesaid direction, was evident on the face of the Bid Sheet which Mr. Mahendran examined.

Thus, Mr. Mahendran could not have failed to know that, his aforesaid direction resulted in a very substantial benefit accruing to Perpetual Treasuries Ltd.

We consider this to be an *ex facie* instance where Mr. Mahendran knowingly and despite his protestations that he would keep Transactions affecting Perpetual Treasuries Ltd "*at arm's length*", intervened and issued a direction which benefitted Perpetual Treasuries Ltd.

Thirdly, we are of the view that Mr. Mahendran acted in a manner which assisted Perpetual Treasuries Ltd when he failed to ensure that the CBSL promptly carried out an investigation into the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and ascertained why Perpetual Treasuries Ltd took the extraordinary and unusual step of placing Bids for as much as Rs.15 billion at an Auction where Treasury Bonds for only Rs. 1 billion were offered.

In this connection, we note that, despite the public outcry in the aftermath of that Auction, Mr. Mahendran did not even ensure that this issue was discussed at the Monetary Board at its meeting on 06<sup>th</sup> March 2015 or soon thereafter.

We are of the view, it is fair to conclude that, by his inaction, Mr. Mahendran suppressed an investigation into the Auction and, thereby benefitted Perpetual Treasuries Ltd.

Fourthly, we note that, a substantial question arises as to whether: (i) Mr. Mahendran's insistence, at the meeting of the Monetary Board held on 23<sup>rd</sup> February 2015, that 30 Year Treasury Bonds be issued within a week, together with Mr. Mahendran's insistence, on 27<sup>th</sup> February 2015, that Treasury Bonds to the value of Rs. 10.058 billion be issued at that Auction, which resulted in the long end of the Treasury Bond Yield Curve being fixed at a high Yield Rate; coupled with (ii) Mr. Mahendran's intervention, the same day, at the meeting of the Market Operations Committee and

his direction to remove the Interest Rate of 5% *per annum* offered on the overnight Standing Deposit Facility, which resulted in Short Term Interest Rates rising and, thereby, the short end of the Treasury Bond Yield Curve also rising at the same time; (iii) thereby, pushing up both ends of the Treasury Bond Yield Curve; was designed to accrue to the benefit of Perpetual Treasuries Ltd, which specialized in the Trading of long Tenor Treasury Bonds and had obtained Treasury Bonds to the value of Rs. 5 billion at high Yield Rates on the same day - *ie*: 27<sup>th</sup> February 2015 - as a result of Mr. Mahendran intervention in the Auction held on that day.

It is evident that, obtaining 30 Year Treasury Bonds to the value of Rs.5 billion at high Yield Rates on 27<sup>th</sup> February 2015, placed Perpetual Treasuries Ltd in an advantageous position where it was able to use the leverage gained by acquiring those Treasury Bonds, to make substantial Profits by trading on those Treasury Bonds in the Secondary Market, when the Yield Curve moved downwards, as it was likely to. We note that, in fact, by end April 2015, the Yield Curve had moved downwards and Perpetual Treasuries Ltd was placed in a position where it could gain substantial Profits by trading on the Treasury Bonds obtained at high Yield Rates, two months earlier.

Fifthly, Mr. Mahendran's decision to, unilaterally and suddenly, stop or suspend Direct Placements on 27<sup>th</sup> February 2015, was disadvantageous to the CBSL and accrued to the benefit of Primary Dealers who were, thereby, placed in a situation where they could, to a significant extent, determine the Yield Rates at which Treasury Bonds were issued by the CBSL.

We see from the evidence before us that, the fact that the CBSL had to place sole reliance on Public Auctions when issuing Treasury Bonds after 27<sup>th</sup> February 2015 following Mr. Mahendran's direction to stop or suspend Direct Placements, enabled Perpetual Treasuries Ltd to obtain significant quantities of Treasury Bonds at high Yield Rates at these Auctions and trade on these Treasury Bonds to make enormous Profits.

By his own admission, Mr. Mahendran was an experienced and competent Banker who was very familiar with the Government Securities Market and who well understood the dynamics of that Market. In these circumstances, Mr. Mahendran could not have failed to know that his unilateral decision to stop or suspend Direct Placements, would benefit Perpetual Treasuries Ltd and other Primary Dealers.

Sixthly, we note that, in reply to Questions asked by the Commission of Inquiry, Mr. Mahendran admitted he knew that Mr. Indika Saman Kumara was a "*key player*" in the EPF during the 2010-2012 period when the EPF was criticized for entering into loss-making Transactions in the Stock Market.



When the Commission of Inquiry then asked Mr. Mahendran why, in that background, Mr. Indika Saman Kumara was transferred to the EPF in mid-2015 and allowed to trade in Treasury Bonds at the Front Office of the EPF from October 2015 onwards, Mr. Mahendran stated that, Mr. Saman Kumara was “CFA qualified” and “we had a shortage of CFA qualified staff in the bank”. Mr. Mahendran went on to say that, he had asked Mr. Tilak Karunaratne, a previous Chairman of the Securities and Exchange Commission, whether there had been evidence implicating Mr. Saman Kumara in any wrong doing and Mr. Mahendran said “And we didn’t get any real evidence My Lord” which implicated Mr. Saman Kumara “In any significant wrong doing of a magnitude which would require sort of in depth investigation.”.

We note that, Mr. Jayalath, the then Superintendent of the EPF Department, emphatically stated that, Mr. Mahendran had insisted that Mr. Saman Kumara must be attached to the Front Office of the EPF, which deals in Treasury Bonds and other Securities. Mr. Jayalath also testified that, he was of the view that Mr. Saman Kumara had frequent contact with Mr. Mahendran with regard to the transactions of the EPF. Mr. Mahendran denied these matters.

However, we are of the view that, at the very least, Mr. Mahendran had to know that Mr. Saman Kumara was dealing in the Front Office of the EPF.

We are surprised that, knowing there was suspicions regarding Mr. Saman Kumara’s track record at the EPF during a time in which the EPF was said to have engaged in questionable Transactions on the Stock Market, Mr. Mahendran did not consider it unsuitable for Mr. Saman Kumara to deal in Treasury Bonds and other Securities in the Front Office of EPF.

We also note that, in reply to Questions asked by learned Deputy Solicitor General, Mr. Mahendran admitted that he received the Summaries of Capital Market Transactions sent by the EPF to Mr. Mahendran on a daily basis. In this connection, when learned Deputy Solicitor General asked Mr. Mahendran, “*Right. These documents [referring to the Summaries of Capital Market Transactions] would have reached you on daily basis Mr. Mahendran ?*”, Mr. Mahendran replied, “*Yes ... Yes...*”.

The evidence before us establishes that, when Mr. Saman Kumara was dealing in Treasury Bonds at the EPF from October 2015 onwards, he entered into a series of Transactions which substantially benefitted Perpetual Treasuries Ltd. Mr. Mahendran could not have been entirely unaware of this because these Transactions were reported to him in the Summaries of Capital Market Transactions sent by the EPF to Mr. Mahendran on a daily basis. However, we note that, the name of Perpetual

Treasuries Ltd and the other Parties to these Transactions were not specified in these Reports.

In this connection, we also note that, although the two Reports contained in the documents compendiously marked “**C206**” highlighting some concerns regarding the Trading Patterns of the EPF were submitted to Mr. Mahendran in February 2016, Mr. Mahendran did not take any action with regard to these Reports and did not table these Reports at the Monetary Board up to the time he ceased to be the Governor of the CBSL.

In these circumstances, we consider that Mr. Saman Kumara’s transfer to the EPF which Mr. Mahendran, at the very least knew of, and his acquiescence in Mr. Saman Kumara continuing at the EPF and dealing in Treasury Bonds from October 2015 onwards, enabled Perpetual Treasuries Ltd to gain very substantial benefits.

Seventhly, we are of the view that, despite the controversy which arose after the Treasury Bond Auction on 29<sup>th</sup> March 2016, Mr. Mahendran failed to take the elementary step of ascertaining the value of Treasury Bonds obtained by each Primary Dealer at these Auctions. If that had been done, it would have come to light that, Perpetual Treasuries Ltd had obtained a disproportionate amount of the Treasury Bonds at this Auction.

Once again, the inaction on the part of Mr. Mahendran accrued to the benefit of Perpetual Treasuries Ltd.

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## CHAPTER 26

### **THE HON. PRIME MINISTER'S ROLE IN MATTERS RELEVANT TO OUR MANDATE**

Mr. Arjuna Mahendran was appointed the Governor of the CBSL, on 23<sup>rd</sup> January 2015.

Thus, the appointment of Mr. Mahendran was made before the period of our Mandate commenced and we have no jurisdiction to determine the merits or demerits of that appointment.

However, we cannot be insensible to the fact that, there have been concerns expressed in the public domain, with regard to the propriety of Mr. Mahendran's appointment following reports of his alleged intervention in the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and his relationship with Mr. Arjun Aloysius who has close connections with Perpetual Treasuries Ltd, which obtained the lion's share of the Bids accepted at that Auction.

Concerns have also been expressed in the public domain, with regard to whether the fact that, Mr. Mahendran is not a Citizen of Sri Lanka, made it unlawful or unsuitable for him to have been appointed the Governor of the CBSL.

Therefore, we decided to briefly look at these issues, though we will not, in view of the confines of our Mandate, venture to arrive at any determination on these issues.

When Mr. Mahendran gave evidence before us, he stated that, he had been working in Dubai in January 2015 and that, he had received a telephone call from the Hon. Prime Minister, Ranil Wickremesinghe, MP, who had invited Mr. Mahendran to accept appointment to the office of the Governor of the CBSL.

In these circumstances, the Commission of Inquiry asked the Hon. Prime Minister whether he had invited Mr. Mahendran to accept appointment as the Governor of the CBSL. In reply, the Hon. Prime Minister stated, "*Yes. It is correct that sometime in January 2015, I invited Mr. Arjuna Mahendran to serve as the Governor of the CBSL of Sri Lanka (CBSL).*". In this connection, we note that, the Hon. Prime Minister is also the Minister of National Policies and Economic Affairs under which the CBSL has been placed.

Next, in view of the requirements of Section 12 (1) of the Monetary Law Act which states that, an appointment of the Governor of the CBSL has to be made by the President on the recommendation of the Minister of Finance, the Commission of Inquiry asked the Hon. Prime Minister whether Mr. Mahendran was appointed on a

recommendation made by the then Minister of Finance and/or on a recommendation made by the Hon. Prime Minister, as the Minister of National Policies and Economic Affairs under which the CBSL has been placed.

The Hon. Prime Minister replied, *“Upon the formation of the new Government in January 2015 there was a general consensus within the Government that Mr. Mahendran should be appointed to the post of Governor of CBSL. I discussed the proposed appointment with the then Minister of Finance who agreed that Mr. Mahendran was the most suitable candidate. Accordingly, the then Minister of Finance with my concurrence recommended to His Excellency the President that Mr. Mahendran should be appointed. His Excellency the President acting upon the said recommendation appointed Mr. Arjuna Mahendran as the Governor of the CBSL.”*

Thereafter, the Commission of Inquiry asked the Hon. Prime Minister the reasons why he considered Mr. Mahendran to be a fit and suitable person to be appointed the Governor of the CBSL.

In reply, the Hon. Prime Minister stated, *“Mr. Mahendran was selected for appointment in view of his professional qualifications and experience in the field of banking and investments. He had functioned as the Chairman of the BOI during the period 2002 to 2004. He has also held senior positions in the banking industry in Middle East and Singapore. The previous incumbent lacked comparable qualifications and experience and the administration of the CBSL during his tenure of office had been subject to severe criticism. Hence, prior to the General Election of 2015 there was a general demand from our political allies that a competent person versatile in banking and International finance should be appointed to the post of Governor of the CBSL.”*

We note from the evidence before us that, after graduating from the University of Oxford with a Bachelor's Degree and a Master's Degree, Mr. Mahendran served in the CBSL, as a Staff Officer, during the period 1983 to 1993. During this time, he was also seconded by the CBSL to serve as the Director, Fiscal Policy for two years at the Ministry of Finance. Therefore, Mr. Mahendran would have been familiar with the structure and operations of the CBSL and also experience working in the area of Fiscal Policy which is the province of the Ministry of Finance. Mr. Mahendran then proceeded abroad and has had a long and successful career in Banking, especially in Investment Banking. He has held high level Management Positions, for many years, in Hong Kong, Singapore and the Middle East, at Societe Generale SA, Credit Suisse Group AG, HSBC Private Bank and Emirates NBD. From 2002 to 2004, Mr. Mahendran served as the Chairman of the Board of Investment of Sri Lanka.

Thus, when Mr. Mahendran was appointed as Governor of the CBSL, he had: a *“hands on”* knowledge of the CBSL after having worked at the CBSL for a considerable period of time; working experience in the field of Fiscal Policy at the Ministry of Finance; a

long and successful career in International Banking thereafter, where he held high level management positions and gained in-depth exposure to and experience of International Finance; knowledge of international Markets which Sri Lanka needs to participate in; and also experience as a Chairman of the Board of Investment of Sri Lanka.

In this connection, we also note that, from 2004 onwards, the Governor of the CBSL has been a person appointed to that post from outside the cadre of Officers of the CBSL and have been persons with no experience in 'Central Banking'. In fact, to the best of our knowledge, Mr. Mahendran is the only Governor during the period from 2004 onwards who has had extensive experience in 'Banking'.

From 2004 onwards, these appointments have been made without the CBSL or the Government following any process of evaluation and selection which is known to the public. In our Recommendations set out in Chapter 33 of this Report, we have recommended significant changes to the process of appointment of a Governor of the CBSL.

Next, although we believe Mr. Mahendran was a Sri Lankan Citizen at birth, he has assumed Citizenship of the Republic of Singapore at some point before 2015. Thus, at the time he was appointed the Governor of the CBSL, Mr. Mahendran was not a Citizen of Sri Lanka. He has not assumed Citizenship of Sri Lanka after 2015.

In these circumstances, the Commission of Inquiry asked the Hon. Prime Minister for his views on the suitability of a person who is not a citizen of Sri Lanka, performing the duties of the Governor of the CBSL.

In reply, the Hon. Prime Minister stated, *"Although at the time of his appointment Mr. Mahendran had ceased to be a citizen of Sri Lanka, he was nevertheless, of Sri Lankan origin. He used to regularly visit his parents who were resident in Colombo and as such he had an abiding interest in, and connection with Sri Lanka. Many Sri Lankans had left the country for positions abroad due to the unsettled conditions prevalent in the country at various times.*

*The fact that Mr. Mahendran was not a citizen of Sri Lanka did not affect his suitability or eligibility and was not a legal impediment to his appointment as the Governor of CBSL. In this context, it is to be noted that the very first Governor of the Central Bank, namely, Mr. John Exeter had been an American national. Likewise, Mr. Mark Joseph Carney who is not a British subject but a Canadian national is the current Governor of the Bank of England."*

We do not think that, the circumstances in which Mr. John Exeter was appointed the Governor of the Central Bank of Ceylon [as it then was] in 1949, after the enactment of the Monetary Law Act No. 58 of 1949, [of which Mr. Exeter was the principal author]

can be properly compared with the circumstances which prevail in Sri Lanka in the present day. We also note, it was widely reported that, when Mr. Mark Carney was appointed Governor of the Bank of England in 2013, he stated he would be applying for British Citizenship while retaining his native Canadian Citizenship.

However, we agree with the Hon. Prime Minister that, the provisions of the Monetary Law Act, the Constitution and the Law do not require that the Governor of the CBSL must be a Citizen of Sri Lanka.

It is also clear that, Mr. Mahendran, who, we believe was a Sri Lankan Citizen at birth and, further, had his Primary and Secondary Education in Sri Lanka and appeared to have been well qualified to handle the duties of a Governor of the CBSL, has deep roots in Sri Lanka and has had continuous connections with Sri Lanka despite working abroad for many years and assuming Citizenship of the Republic of Singapore, at some point in time.

In these circumstances, it is apparent that, the question of whether or not the fact that, Mr. Mahendran was not a Citizen of Sri Lanka precluded him from being appointed the Governor of the CBSL was not a 'Question of Law'. Instead, it was a 'value judgment' which had to be made by those who considered the wisdom of appointing Mr. Mahendran, who was not a Citizen of Sri Lanka, as the Governor of the CBSL.

In passing, we would also mention that, prior to 2015, the CBSL was placed under the Ministry of Finance. In 2015, the CBSL has been brought under the Minister of National Policies and Economic Affairs.

That is a decision taken by the Executive which is entirely outside the scope of our Mandate.

Next, the Commission of Inquiry asked the Hon. Prime Minister whether he was aware that, Mr. Mahendran's son-in-law, Mr. Arjun Aloysius was the Chief Executive Officer and a Director of the Primary Dealer named Perpetual Treasuries Ltd in the year 2014 and up to sometime in January 2015, when Mr. Aloysius resigned from both posts. The Commission of Inquiry also asked the Hon. Prime Minister whether he considered this position raised a potential conflict of interest which could confront Mr. Mahendran in the performance of his duties as the Governor of the CBSL.

In reply, the Hon. Prime Minister said he was aware that, Mr. Aloysius was the Chief Executive Officer and Director of Perpetual Treasuries Ltd and stated that, *"When Mr. Mahendran was offered the post of the Governor of the CBSL, I insisted that he should ensure that Mr. Aloysius would resign as a Director of Perpetual Treasuries Ltd and not involve himself in the business activities of that company in anyway. I also strongly recommended that the best course of action would be for Mr. Aloysius to divest himself of his shares in the company. This was conveyed by me to both Mr. Mahendran*



*as well as to Mr. Aloysius. Subsequently, I became aware that Mr. Aloysius had in the month of January itself resigned from the post of Chief Executive Officer and Director of Perpetual Treasuries Ltd. I also became aware that he remained a Shareholder of that company and he intimated that he would divest himself of the shareholdings as soon as possible. On expressing my concerns on this account, Mr. Mahendran reassured me that Mr. Aloysius would not under any circumstances play any role in the business activities of the company. I had every confidence in the assurances given by Mr. Mahendran and as such I had no reason to apprehend that any conflict of interest would be faced by Mr. Mahendran in functioning as the Governor of the CBSL.”*

Thus, the evidence before us is that, at the time Mr. Mahendran was appointed the Governor of the CBSL, the Hon. Prime Minister had directed that, Mr. Arjun Aloysius must resign from all positions he held in Perpetual Treasuries Ltd and that, Mr. Aloysius must not have any connection with the operations of Perpetual Treasuries Ltd. Further, the Hon. Prime Minister has recommended that, Mr. Aloysius divests himself of any shareholdings in Perpetual Treasuries Ltd. Subsequently, Mr. Aloysius has resigned from all positions he held in Perpetual Treasuries Ltd and Mr. Mahendran has assured the Hon. Prime Minister that, Mr. Aloysius *“would not under any circumstances play any role in the business activities of”* Perpetual Treasuries Ltd.

When, on 20<sup>th</sup> November 2017, the Commission of Inquiry asked the Hon. Prime Minister whether he was aware that, Mr. Arjun Aloysius continued to be a Shareholder and Director of Perpetual Capital Holdings (Pvt) Ltd and Perpetual Capital (Pvt) Ltd, which are the ultimate owning Companies of Perpetual Treasuries Ltd, the Hon. Prime Minister said he was not aware of this fact.

Thus, it appears that, when the Hon. Prime Minister concurred with the recommendation made by the then Minister of Finance to His Excellency, the President to appoint Mr. Mahendran as Governor of the CBSL, the Hon. Prime Minister has relied on the assurances given by Mr. Mahendran that he will ensure that, Mr. Aloysius plays no part whatsoever in the operations of Perpetual Treasuries Ltd and the fact that, by then, Mr. Aloysius had resigned from all positions held in Perpetual Treasuries Ltd.

When the Commission of Inquiry asked the Hon. Prime Minister whether he subsequently inquired from Mr. Mahendran with regard to a potential conflict of interest, the Hon. Prime Minister replied, *“I did on several occasions convey to Mr. Mahendran my concerns about a possible conflict of interest arising from his son-in-law Mr. Aloysius having a connection with a Primary Dealer. Mr. Mahendran as set out above reassured me that Mr. Aloysius would not engage in the activities of the company as indicated above. In view of the circumstances, I was confident as set out above that a situation of a conflict of interest would not arise.”*



The issue of whether a conflict of interest, in fact, arose as a result of Mr. Mahendran's son-in-law, Mr. Arjun Aloysius, being closely connected to Perpetual Treasuries Ltd, has been considered in Chapter 25 of this Report. We have determined that, there was a conflict of interest which prevailed during Mr. Mahendran's tenure as the Governor of the CBSL because Mr. Aloysius did, in fact, continue to remain actively engaged with the operations of Perpetual Treasuries Ltd, contrary to the assurances which Mr. Mahendran has repeatedly given the Hon. Prime Minister.

We consider that, the confidence which the Hon. Prime Minister states he placed in the assurances given to him by Mr. Mahendran, was misplaced. We are of the view that, the more prudent course of action would have been for the Hon. Prime Minister to have independently verified whether Mr. Mahendran was, in fact, honouring the assurances he gave the Hon. Prime Minister. We regret that, the Hon. Prime Minister did not take that course of action.

Next, the evidence establishes that, the Hon. Prime Minister instructed Mr. Mahendran to *consider* whether Public Auctions should be the main method by which the CBSL issued Treasury Bonds and whether the then prevailing practice of overly depending on Direct Placements to raise Public Debt, should be done away with.

We are satisfied that the instruction given by the Hon. Prime Minister to Mr. Mahendran was only that, Mr. Mahendran should *consider* the change and was not an instruction to immediately act unilaterally and order that the acceptance of Direct Placements be immediately stopped or suspended.

The evidence establishes that the Hon. Prime Minister fully expected Mr. Mahendran to comply with due procedure and conduct a comprehensive study into the matter and for this study to be considered by the Monetary Board, *before* a decision was taken with regard to Direct Placements.

Next, when the results of the Treasury Bond Auction held on 27<sup>th</sup> February 2015 became known and there were several allegations that, Mr. Mahendran had interfered in the Auction, the Hon. Prime Minister appointed the three-member 'Pitipana Committee' to inquire into and report on the matter.

We are of the view that, the members of the "Pitipana Committee" [comprising of three senior and reputed Attorneys-at-Law] did not possess technical knowledge or practical knowledge in the considerably complex arena of Government Securities and Public Debt.

Although, we see that, the Hon. Prime Minister has sought to supplement that lack of expertise by ensuring that, the members of the "Pitipana Committee" had the assistance of Dr. W.A. Wijewardena [a former Deputy Governor of the CBSL] with regard to the technical aspects of the matter being inquired into, we consider that, the

Hon. Prime Minister's act of appointing an Investigative Committee would have been more effective if the "Pitipana Committee" also had members who had knowledge and experience in the technical and practical aspects of the matter being inquired into.

Next, with regard to the Statement made in Parliament by the Hon. Prime Minister on 17<sup>th</sup> March 2017, in which he states, *inter alia*, that, Mr. Mahendran had not interfered in the Treasury Bond Auction of 27<sup>th</sup> February 2015, we have held that, the evidence establishes that, Mr. Mahendran and Deputy Governor Samarasiri, deliberately and *mala fide*, misled the Hon. Prime Minister and suppressed material facts and misrepresented the factual position when they reported the events relating to the Treasury Bond Auction held on 27<sup>th</sup> February 2015, to the Hon. Prime Minister and also when they submitted a Briefing Note to the Hon. Prime Minister, with regard to the events of that Auction.

While we do not, for even a moment, presume to make any pronouncement on events that transpired in Parliament, we consider that, the Hon. Prime Minister would have been better advised, if he had independently verified what had happened at the CBSL on 27<sup>th</sup> February 2015, before making any statement, instead of relying on the Briefing Note and report submitted to him by Mr. Mahendran and Deputy Governor Samarasiri.

We note that, the Report of the "Pitipana Committee" did not determine that, there was any impropriety in the conduct of the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and that, consequently, Mr. Mahendran [who had been on leave pending the completion of the Inquiry of the "Pitipana Committee" and the submission of its Report] resumed duties as Governor of the CBSL when there was no finding of impropriety.

We consider that, the position may have been different if the Committee or other body which carried out this Inquiry had the benefit of members who had knowledge and experience in the technical and practical aspects of the matter being inquired into.

In any event, soon thereafter, Parliament has resolved to inquire into the Treasury Bond Auction held on 27<sup>th</sup> February 2015, through the COPE of the Seventh Parliament and, later, through the COPE of the Eighth Parliament. That process of Inquiry by Parliament was completed only in October 2016.

We note that, in his evidence, the Hon. Prime Minister has stated that, since the matter was in the hands of the Parliament, the Hon. Prime Minister could not have taken further steps in that regard.

In the meantime, since no finding of impropriety or bad faith had been made against him, Mr. Mahendran continued to serve as Governor of the CBSL until his term ended on 30<sup>th</sup> June 2016 and he was not re-appointed.

While we are fully cognizant that, Parliament has supreme authority and control over Public Finance and matters related thereto, we are of the view that, Inquiries into highly technical and complex matters such as the issue of Government Securities and the raising of Public Debt, are more effectively and completely carried out by an Investigative Committee or an Investigative Tribunal which has some legal training and, importantly, is equipped with knowledge and experience in the technical and practical aspects of the matter being inquired into or has the ability to effectively draw on the resources of persons who have such knowledge and experience.

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## CHAPTER 27

### **ARJUNA MAHENDRAN'S TERM ENDS AND INDRAJIT COOMARASWAMY TAKES OVER**

As set out in the Minutes of the meeting of the Monetary Board held on 24<sup>th</sup> June 2016, Mr. Mahendran informed the Monetary Board that, *“his term of office expires on the 30<sup>th</sup> of June, 2016 and that he would not be seeking re-appointment as Governor until the inquiries of Committee on Public Enterprises on issues related to the issuance of Treasury Bonds in the years 2015 and 2016 have been concluded and his name is cleared.”*

At this meeting, as set out in the Minutes, the Monetary Board had also considered the request made by the Hon. Auditor General to obtain documents of the CBSL and of the PDD in particular, for the purpose of carrying out an inspection and audit, at the request of the COPE of the Eighth Parliament. We set out the relevant extracts of the Minutes of the meeting held on 24<sup>th</sup> June 2016, which are self-explanatory.

#### **“27.1 Information provided to Government Audit by Public Debt Department**

- i. The Governor informed the Board as follows:*
  - a. As per instruction of the Monetary Board at its meeting held on 30.05.2016 to liaise with the Auditor General to preserve the confidentiality of the sensitive information in respect of information on issuance of Treasury Bonds sought for audit, Deputy Governor (SM) communicated with the Auditor General requesting him to access and examine all relevant information, books, records and documents available with the Central Bank in respect of issuance of Treasury bonds, inside the premises of relevant Central Bank Departments in conformity with the practice followed hitherto. This communication solely focused on the ‘mode’ of providing information for audit and it never mentioned refusal or concealing of information from audit personnel.*
  - b. In the agreement communicated to the Auditor General by Mr. A.S. Jayawardena, former Governor on April 12,2001 and the subsequent advice of the Attorney General given on February 12,2004, emphasis has been made on the necessity of the Auditor General maintaining confidentiality of market sensitive information provided to him. As a consequence, the practice of Auditor General examining the information at the Bank’s premises has been adopted.*

- c. *However, the Auditor General contended to the Committee on Public Enterprises (COPE) that the required information was refused by the Central Bank. The Auditor General requested copies of all original records and information tabulated from original records by the Central Bank in table formats specified by him. The Auditor General justified the request as follows:*
- *Auditor General's Department does not have the expertise to audit information on issuance of Treasury Bonds given its technical nature. Therefore, technical assistance of external experts needs to be obtained for audit.*
  - *Given other audit work, audit officials do not have adequate time to compile and tabulate information from original records.*
- d. *With regard to the discussion at COPE with regard to preserving the confidentiality of market sensitive information and data related to third parties, the Auditor General informed COPE that he could not preserve confidentiality. Members of COPE were divided on the subject and most expressed the view that all information should be submitted to Parliament and confidentiality cannot be maintained.*
- ii. *The Board having considered the Governor's briefing, deliberated on the contents of the following documents.*
- a. *The letter dated June 3, 2016 sent by the Deputy Governor (SM) to the Auditor General.*
  - b. *The letter dated February 12, 2004 sent by the Attorney General to the Auditor General and Director Legal, Central Bank.*
  - c. *The letter dated April 10, 2001 sent to the Auditor General by Mr. A.S. Jayawardena, former Governor.*
  - d. *The letter dated June 17, 2016 sent by the Assistant Auditor General to the Governor.*
  - e. *Information provided by the Superintendent of Public Debt to the Audit Superintendent on June 10, 2016.*
  - f. *Minutes of the meeting of COPE held on June 8, 2016.*
- iii. *Accordingly, the Board decided that the information that had been provided to audit on the issuance of Treasury Bonds is sensitive information within the context of the letter dated April 10, 2001 of Mr. A.S. Jayawardena, former Governor to the Auditor General and the letter dated February 12, 2004 of the Attorney General to the Auditor General. The Governor agreed to inform the Auditor General accordingly.*

- iv. *The Board was also of the view that it is not appropriate for the auditee to compile information from the original records and books as per formats specified by the audit officials and it is the responsibility of the audit officials to compile such information from the original records in order to make audit observations.*
  
- v. *The Governor referring to Paragraph 5 of item 5 of the Minutes of the meeting of COPE held on June 8, 2016 that "... Deputy Governor P. Samarasiri stated that the Monetary Board of the Central Bank had authorized himself to reply that letter and not to furnish sensitive details...", informed the Board that, that part of the Minute is not correct as Deputy Governor did not state anything about not furnishing sensitive information. The factual position is that the Deputy Governor requested the Auditor General to have access to and examine all information, books and records available within the premises of the relevant Central Bank Departments due to the need for maintaining confidentiality of sensitive information sought for audit. The Governor undertook to inform the Chairman of COPE accordingly."*

We note from this Minute, that the Monetary Board, chaired by Mr. Mahendran, decided that the Auditor General must have access to the documents necessary for the purposes of carrying out an inspection and audit, subject to the condition that the Auditor General should maintain the confidentiality of 'market sensitive information'. In arriving at this Decision, the Monetary Board has acted in line with the past practice of the CBSL and as advised by the Hon. Attorney General.

We also note that, the Auditor General's Report to COPE establishes that he had access to the documents he was required to inspect and audit and that he had been able to obtain copies of these documents, subject to the restriction the CBSL had reasonably imposed in respect of the maintenance of confidentiality of "market sensitive information". In this regard, we reproduce Section 3.10 of the Auditor General's Report marked "**C90D3**", where the Auditor General identifies ten limitations of scope to his Report and with regard to the documents made available to him, does not state that he was not given access to the documents he required to inspect. The Auditor General only remarks on the imposition of a requirement of confidentiality:

*"3.10 According to the reply received from the Governor of the Central Bank of Sri Lanka for the request made to him to identify correctly the confidential and sensitive information in the information supplied by the Central Bank of Sri Lanka for the preparation of this Report, the need to consider all information supplied as confidential (Annexe iii)."*

As set out in the Minutes of the aforesaid meeting held on 24<sup>th</sup> June 2016, the Monetary Board had correctly decided that, it would not be proper or serve the purposes of the

inspection and audit, for the CBSL to furnish the Auditor General with copies of documents and that, instead, the Auditor General and his officers should inspect the originals of the documents and obtain copies where necessary, for the purposes of carrying out the inspection and audit.

The Minutes of the next meeting of the Monetary Board held on 30<sup>th</sup> June 2016 establish that, Mr. Mahendran ceased to act as the Governor of the CBSL from that day onwards. In this connection we reproduce Section 4(a) of the Minutes:

*“ 4 (a) The Chairman informed the Board that his term expires today, the 30<sup>th</sup> of June 2016. He thanked the members of the Monetary Board, Deputy Governors, Secretary to the Monetary Board, Director of Economic Research, Heads of Department and the staff of the CBSL, for their assistance during his tenure as the Governor of the CBSL.”.*

We note from the Minutes of the meeting of the Monetary Board held on 30<sup>th</sup> June 2016, that, Mr. Mahendran also informed the Monetary Board that COPE of the Eighth Parliament had requested him to be present before the COPE on 07<sup>th</sup> July 2016 to be examined on the matters related to issuing of the Treasury Bonds by the CBSL and that COPE had requested the members of the Monetary Board, Deputy Governors and other relevant officials to assist COPE in carrying out its inquiry.

Thus, Mr. Mahendran's tenure as Governor of the CBSL, which commenced on 23<sup>rd</sup> January 2015 ended on 30<sup>th</sup> June 2016.

Dr. Indrajith Coomaraswamy was appointed as Governor of the CBSL, by His Excellency, the President, on 04<sup>th</sup> July 2016.

The first meeting of the Monetary Board attended by Dr. Indrajith Coomaraswamy as the Governor of the CBSL and Chairman of the Monetary Board, took place on 13<sup>th</sup> July 2016.

We note that, at this meeting held on 13<sup>th</sup> July 2016, chaired by Dr. Indrajith Coomaraswamy, the Monetary Board considered a Board Paper submitted by the PDD recommending the introduction of a system of Non-Competitive Bids at Auctions of Government Securities.

Shortly thereafter, Mr. A.N. Fonseka was appointed as an appointed member of the Monetary Board on 27<sup>th</sup> July 2016.

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**CBSL'S INVESTIGATIONS INTO PERPETUAL TREASURIES LTD AND THE EPF**

**CBSL's investigation into Perpetual Treasuries Ltd**

In terms of Regulation 9 of the Treasury Bills (Primary Dealers) Regulations No. 01 of 2009 and Registered Stock and Securities (Primary Dealers) Regulations No. 01 of 2009, the CBSL carried out an On-Site Examination of Perpetual Treasuries Ltd from 24<sup>th</sup> to 26<sup>th</sup> November 2015, during Mr. Arjuna Mahendran's tenure as the Governor of the CBSL.

This Examination carried out in November 2015 highlighted several "*supervisory concerns and findings*" which the CBSL had with regard to Perpetual Treasuries Ltd, including, *inter alia*:

1. Perpetual Treasuries Ltd failing to enter into Repurchase/ Reverse Repurchase Agreements with 21 out of its 148 customers who carry out REPO Transactions with Perpetual Treasuries Ltd;
2. Perpetual Treasuries Ltd failing to comply with Section 11 of the Direction of Custom Charter for Primary Dealers and their Customers issued on 07<sup>th</sup> November 2013, which required Primary Dealers to set up Procedures to comply with the "Know Your Customer Rules" and obtain the documentation required to do so, in the case of 4 customers;
3. Perpetual Treasuries Ltd failing to comply with the Direction on Repurchase and Reverse Repurchase Agreements dated 02<sup>nd</sup> May 2002, by failing to allocate adequate Securities when Perpetual Treasuries Ltd borrowed from 18 customers under Repurchase Agreements;
4. Perpetual Treasuries Ltd violating Section 2.2 of the LankaSettle System Rules Version 2.1, by failing to record 18 customer Outright Transactions in the CDS-CSL account;
5. Delays in rectifying regulatory concerns raised in the previous Statutory Examination Report carried out earlier that year;
6. Perpetual Treasuries Ltd not having a formally agreed Contingency Funding Plan;

7. Perpetual Treasuries Ltd not having a Strategic Business Plan which defined their strategic targets and time bound Key Performance Indicators;
8. Perpetual Treasuries Limited's exposure to Liquidity risks due to limitations in the customer base of Perpetual Treasuries Ltd;
9. The fact that, PTL's Middle Office and Risk Management Division is headed by its Chief Compliance Officer and the inadequacy of Management Reports which should be examined by the senior Management of Perpetual Treasuries Ltd, on a regular basis;
10. Shortcomings on the part of Perpetual Treasuries Ltd in monitoring Dealer Limits and Counter Party Limits;
11. Perpetual Treasuries Ltd not having completed a System Audit of its Information Technology Department and Operations and the fact that, the IT Policy Manual of Perpetual Treasuries Ltd has not been approved by the Board of Perpetual Treasuries Ltd;
12. Perpetual Treasuries Limited's participation in Treasury Bill Auctions having decreased from February 2015 and having been nonexistent from May to September 2015;
13. The fact that, Deal Tickets and Settlements relating to Transactions by Perpetual Treasuries Ltd were prepared by the staff of the Back Office and not by the Dealers in the Front Office;
14. The fact that, Perpetual Treasuries Limited's Database of scanned authorized signatures of customers, was not complete;
15. The fact that, the Chief Executive Officer of Perpetual Treasuries Ltd also acts as the Head of Group Treasury of the Perpetual Group of Companies, which includes Perpetual Equities (Pvt) Ltd;
16. The fact that, Perpetual Treasuries Limited's monthly Reports on compliance with LankaSettle System Rules Version 2.1 (2013) had not been properly prepared;
17. The fact that, Perpetual Treasuries Limited's Human Resources functions were handled by the Compliance Officer;

18. Perpetual Treasuries Limited's practice of transferring Securities under Customer REPOs to Perpetual Treasuries Limited's own Account in the Central Depository System, once the customer takes a Reverse REPO against that collateral.

Perpetual Treasuries Ltd responded, by its letter dated 11<sup>th</sup> July 2016 marked, "**C322**", and assured the CBSL that:

*"We have noted the supervisory concerns and are addressing the concerns highlighted in the report. We have already drawn up an action plan and the concerned officers have been tasked with compliance thereof under the monitoring and evaluation of the management team. We forward herewith our action plan for your information and necessary action.*

*We shall submit the supervisory concerns for the information and attention of Board of Directors at the January 2016 board meeting. The PDD recommendations and the actions taken by us would be discussed in that Board meeting."*

We note that the Attachment to this letter sets out, in detail, Perpetual Treasuries Limited's response to the "*supervisory concerns and findings*" of the CBSL and assures that all measures necessary to rectify these "*supervisory concerns and findings*", will be taken promptly.

When Mr. Mahendran was cross examined by the learned Deputy Solicitor General, it was suggested to Mr. Mahendran that, he should have ensured that Perpetual Treasuries Ltd was actively investigated further, following the aforesaid On-Site Examination.

Mr. Mahendran's response was that, the lapses identified as "*supervisory concerns and findings*" at this On-Site Examination, were not unusual and that, the CBSL had not considered it was necessary to conduct a further investigation.

Mr. Mahendran also said that, at that time, the CBSL had been engrossed in its concerns about Entrust Securities PLC, which had lost funds amounting to approximately Rs. 12 billion.

When we examined these "*supervisory concerns and findings*" identified in November 2015, we note that there are no findings which suggest that, Perpetual Treasuries Ltd was in receipt of "inside information" ["price sensitive information"] or that, Perpetual Treasuries Ltd was manipulating the Secondary Market in Treasury Bonds or that Perpetual Treasuries Ltd was engaged in any improper conduct in the Primary Market or in the Secondary Market in Treasury Bonds.

Thereafter, CBSL carried out further On-Site Examinations of Perpetual Treasuries Ltd from 26<sup>th</sup> to 28<sup>th</sup> July 2016 and from 04<sup>th</sup> to 8<sup>th</sup> August 2016.

Following these On-Site Examinations, CBSL has prepared a “Report of the Examination of Perpetual Treasuries Ltd as at September 2015” which was marked “C84A”.

This Report, *inter alia*, states that:

- 1] Perpetual Treasuries Ltd has recorded an extraordinary growth in Total Assets increasing from Rs. 5.175 billion on 31<sup>st</sup> October 2014 to Rs. 13.464 billion on 30<sup>th</sup> September 2014 and up to Rs. 21.272 billion on 31<sup>st</sup> May 2016, which was an Asset Growth Rate of 311.05%. The Report also stated that, in comparison, other “Standalone Primary Dealers” recorded an Asset Growth Rate of only 13.93%;
- 2] Perpetual Treasuries Limited’s Return on Assets Ratio [Profit before Tax] was 18.3% as at 30<sup>th</sup> September 2015 and had increased to 95.8% as at 31<sup>st</sup> May 2016. That was a Growth Rate of 67.6%. In comparison, other “Standalone Primary Dealers” had recorded a negative Growth in Return on Assets of -7.0%;
- 3] PTL’s Return on Equity Ratio and Return on Assets Ratio have increased sharply and demonstrate unusually high Profitability in comparison to other “Standalone Primary Dealers”;
- 4] The Report states, *“The exceptionally high growth in assets, earnings and capital in a very short period of operations in a market where performance of standalone PDs grew only by 31% (assets) over the same period raise concerns as to how PTL was able to grow by an unusual rate of 1,853%. Given the allegations, it is prudent to further investigate the affairs of the company to ascertain whether the company has been operating within the established regulatory framework and in accordance with ethical market practices.”*
- 5] The Report states, *“Excessive Bidding at off market rate - It has been observed that PTL as adopted an aggressive bidding strategy at off market rates for long dates T Bonds. The company has been successful in receiving substantial amounts, even without a contingency funding plan. Subsequently, PTL has been able to dispose these bonds resulting an immense profit during the period. The company has so far been successful in their strategy as they have found investors to sell the T bonds bought at auctions and make extraordinary profits. If for some reason the company was unable to sell the T bonds purchased at the auctions the company could have faced huge losses risking the company’s existence. Further, this aggressive strategy could put the entire government securities market and primary dealer industry at risk.”*

6] The Report states, *“It can be observed that of the total capital gains earned during January 2015 to May 2016, 33.5%, 30.3% and 14%, was through transactions entered with Pan Asia Bank Corporation, DFCC and EPF respectively.”*

Since then, the CBSL has suspended Perpetual Treasuries Limited’s operations.

### **CBSL’s investigation into EPF**

As stated earlier, the evidence shows that, in or about the month of February 2016, Mr. C.P.R. Perera, who is an Appointed Member of the Monetary Board, had raised concerns with regard to allegations made by various persons, that some members of the Staff of the EPF Department of the CBSL were acting in collusion with a few Primary Dealers when trading on the Secondary Market in Treasury Bonds.

Mr. Mahendran had instructed Mr. Jayalath, the Superintendent of the EPF to examine whether there was any substance in these allegations and to submit a Report.

Mr. Jayalath had, with the assistance of his Staff in the EPF Department of the CBSL, conducted an examination and submitted a Report to Mr. Mahendran sometime in February 2016. This undated Report is included in the documents which have been compendiously marked **“C206”**.

This Report is titled, *“Preliminary Investigation Report on Treasury Bond Dealing Practices at EPF”* and opens with the statement that, *“A preliminary investigation was carried out on the secondary market dealings practices of the EPF on Government securities (Treasury Bonds) in the period covering November 01 2015 to February 8 2016, with a view of identifying any abnormal or misuse of the practices by the Dealers.”*

The Report then goes on to, *inter alia*, state that, *“Accordingly dispersions in yields of the transactions of EPF do not provide sufficient indications on intentional transactions (purchases) at yields lower than the market yields”* and that, *“changes in purchases prices were well within the yield curve changes, indicating that the deals of EPF were within the yields prevailed in the market.”*

The Report concludes that, *“In view of the foregoing it is evident that the reported types of market movements occurred during the period with respect to the security under reference. Dealings by the EPF seem responsible for market yield movements in the identified sector. (2041) However, attributing those to willful negligence or actions for personal gain beyond doubt could be quite challenging as similar variations were also observed with regard to certain other sectors not dominated by EPF. Similarly, actions of the EPF dealer seem not supporting well on unquestionable behavior as the*

*economic environment prevailed in the reference period cannot be said to supported strongly on the possibility of significant yield decline in the future.”.*

In or around the time this Report was handed to Mr. Mahendran, the following Article had appeared in the Sunday Times of 06<sup>th</sup> March 2016:

*“‘Suspicion’ over recent Treasury bond purchases*

*Deals by two ‘influential’ money market traders who purchased large stocks of Treasury bonds and sold it at a premium a few weeks later to the Employees Provident Fund (EPF) are raising many questions, dealers said.*

*‘We have no proof or evidence but the process appeared to be very suspicious,’ one dealer said, adding that the deals have been over the past few months.*

*Dealers said that the two traders unusually bid at higher rate for large blocks. A few weeks later these institutions sold the bonds to EPF at a profit while the state agency, which is eligible to buy in the primary market on its own, stands to lose on the deal. ‘Why didn’t the EPF buy in the primary market?’ asked one dealer. The last crisis to hid the market was in February 2015 when questions were raised over the CB’s 10-billion rupee bond sale which was sold at higher than normal rates.”.*

Following the publication of this article, a further Report had been prepared by the EPF Department. This Report is also undated and is included in the Documents which have been compendiously marked “**C206**”.

This Report concludes:

*“4.1 The EPF engages in transactions involving the Treasury Bonds in both the primary and secondary markets to realize trading profits as well as to generate sufficient long term returns for its members. As such, the EPF may consider several factors in its trading decisions pertaining to government securities. The allegation that the EPF purchased bonds in the secondary market at a premium without purchasing the same bonds at the primary auction is without any reasonable basis given the recent trading history of the Fund.*

*4.2 Further, the allegation that certain dealers ‘unusually bid at higher rates for large blocks’ seems inconsistent with the patterns observed in the primary auctions as most bids at higher rates were rejected by the PDD in the recent past.”.*

The evidence before us is that, Mr. Jayalath also submitted this Report to Mr. Mahendran and that, Mr. Mahendran does not appear to have taken any action on the two Reports until he ceased to the Governor of the CBSL on 30<sup>th</sup> June 2016.



Following a meeting of the Monetary Board held on 14<sup>th</sup> October 2016, the Monetary Board had instructed Mr. Jayalath to submit copies of the two Reports to the Monetary Board. Mr. Jayalath had done so on 28<sup>th</sup> October 2016. The Monetary Board had its next meeting on 31<sup>st</sup> October 2016. At that meeting, Monetary Board directed, as set out in the document marked “C206”, that, *“a comprehensive examination should be carried out on the Employees’ Provident Fund covering its secondary market transactions of Treasury Bonds, its participation in the primary auctions and bidding patterns, etc. and that it should be also incorporated in the terms of Reference of the external inquiring team.”*

We are aware, that in pursuance of this Directive, a team of officers of the CBSL conducted an examination of the transactions entered into by the EPF and prepared a Report dated 17<sup>th</sup> March 2017. This Report had been submitted to the Monetary Board on 23<sup>rd</sup> March 2017. It has been stated to us that, the Monetary Board has decided to take appropriate action with regard to the matters set out in the Report.

On 28<sup>th</sup> April 2017, the Governor of the CBSL has advised us that, the CBSL considers this Report *“as strictly confidential on the basis that several regulatory actions are proposed to be taken based on its findings, including, where necessary, taking legal action in courts of law. .... Some parties who are identified in the said report appear to be present or represented either directly or indirectly before the Col hence if the report is made use of in the proceedings of the Col and is made available to the parties who have expressed an interest in the matters before the Col, it would seriously undermine and hamper the intended regulatory actions to be taken by the Monetary Board.”*

The Commissioners were provided with copies of the Report for our *“personal perusal”*. For the reasons stated by the Governor of the CBSL, the Commission of Inquiry did not require the production of this Report in evidence. Therefore, we cannot have recourse to its contents for the purposes of our Report.

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## CHAPTER 29

### **PERPETUAL TREASURIES LTD DELETES TELEPHONE CALL RECORDINGS AND CRASHES A COMPUTER**

The evidence before us establishes that from about May 2015 onwards, Perpetual Treasuries Ltd used a “Xtend Voice Logger System” to record Conversations on Telephone Calls originated and received by Perpetual Treasuries Ltd.

The evidence establishes that, the features of the “Xtend Voice Logger Application System” used by Perpetual Treasuries Ltd included the recording of all Telephone Conversations that were originated and received on the designated Telephone Lines connected to the PABX Telephone Exchange System at Perpetual Treasuries Ltd and the recording of all the related Call Details, such as the Date and Time of the Telephone Calls and Caller Line Identification etc.

The “Wave Files” containing Telephone Call Recordings and “Data Files” containing the related Call Details of those Telephone Calls were recorded on the “Xtend Voice Logger Application System” from the month of June 2015 up to 04<sup>th</sup> July 2017 and were stored in the Hard Drive of the Computer supplied by Metropolitan Communication (Pvt) Ltd.

The evidence establishes that, in or about November 2016, Mr. Palisena, the Chief Executive Officer of Perpetual Treasuries Ltd had instructed Mr. Salgado, the Chief Dealer of Perpetual Treasuries Ltd, to start listening to Telephone Call Recordings on the “Xtend Voice Logger System” operated by Perpetual Treasuries Ltd and to identify and delete Telephone Call Recordings which contained conversations which were “*harmful*” to the interests of Perpetual Treasuries Ltd.

This instruction has been given to Mr. Salgado soon after Perpetual Treasuries Ltd had received a letter sent by the CBSL.

Thereafter, Mr. Salgado has complied with this instruction and commenced listening to Telephone Call Recordings on the “Xtend Voice Logger System” and noting down the serial numbers of the Telephone Calls which he considered had “*harmful*” content. This exercise was carried out over a long period of time, commencing from the month of November 2016.

Upon questioning by the Commission of Inquiry, Mr. Salgado stated that, he considered as “*harmful*”, conversations that could lead to an inference of wrongful conduct on the part of Perpetual Treasuries Ltd, such as: conversations concerning Perpetual Treasuries Ltd pushing Market Rates in a particular direction; conversations indicating collusion between Perpetual Treasuries Ltd and another party; conversations showing that Perpetual Treasuries Ltd was dealing at a Rate which was not the Market Rate; conversations showing that Perpetual Treasuries Ltd had inside information with regard to matters concerning the CBSL, etc.

Further, the evidence is that, in the month of March 2017, following Perpetual Treasuries Ltd receiving a letter issued by an “*authority*” requiring Perpetual Treasuries Ltd to produce the Telephone Call Recordings of 29<sup>th</sup> March 2016 and 30<sup>th</sup> March 2016, Mr. Palisena had instructed Mr. Salgado to delete all Telephone Call Recordings on those two days which contained conversations which were “*harmful*” to the interests of Perpetual Treasuries Ltd and hand over the Telephone Call Recordings to the “*authority*” only after this process of deletion was done.

The evidence before us is that, Mr. Salgado had identified those Telephone Calls on 29<sup>th</sup> March 2016 and 30<sup>th</sup> March 2016, which he considered had “*harmful*” content, and then instructed Mr. Devathanthri to delete the Voice Recordings of those Telephone Calls.

Mr. Salgado stated that, during this process of deleting Voice Recordings from November 2016 onwards, over 100 Telephone Call Recordings of Perpetual Treasuries Ltd, were deleted.

Thus, the evidence establishes that, from November 2016 onwards, Perpetual Treasuries Ltd had been deleting a large number of “*Wave Files*” which contain Recordings of Telephone Conversations because Perpetual Treasuries Ltd wished to delete Recordings of Telephone Conversations which were “*harmful*” to its interests.

Thereafter, the evidence establishes that, in or about July 2017, Perpetual Treasuries Ltd decided to also delete the “*Data Files*” [which contain, *inter alia*, Call Details of the Telephone Calls] recorded on the “*Xtend Voice Logger Application System*”.

However, it has been established that, Mr. Devathanthri had copied all the original records which were recorded on the “*Xtend Voice Logger Application System*” on to several Compact Discs before Mr. Devathanthri proceeded to delete the *Wave Files* and *Data Files* on the “*Xtend Voice Logger Application System*” of Perpetual Treasuries Ltd.

These Compact Discs contained all Wave Files and Data Files recorded on the “Xtend Voice Logger Application System” from 19<sup>th</sup> May 2015 to or about 31<sup>st</sup> March 2017 and all Wave Files and Data Files recorded on the “Xtend Voice Logger Application System” from 01<sup>st</sup> April 2017 onwards up to 05<sup>th</sup> July 2017. In July 2017, Mr. Devathanthri had handed these Compact Discs to Mr. Salgado, who had retained these Compact Discs.

Thereafter, starting from about 9.30am on 05<sup>th</sup> July 2017, Mr. Devathanthri has deleted all the Data Files and also the Wave Files which Perpetual Treasuries Ltd had identified as Wave Files which should be removed, from the “Xtend Voice Logger Application System” at Perpetual Treasuries Ltd.

Next, in order to maintain a sequence of the Serial Numbers of the Wave Files recorded on the “Xtend Voice Logger Application System”, Mr. Devathanthri had copied some other Wave Files containing Recordings of other Telephone Conversations.

At or about the same time, Perpetual Treasuries Ltd has taken a decision to “crash” its ACER Desk Top Computer which contained the entire Data Base of the “Xtend Voice Logger System” since the Hard Drive of this ACER Desk Top Computer was likely to still retain records of the Data Files and Wave Files which had been deleted.

Mr. Salgado has said that this decision was taken by Mr. Palisena, the witness and Mr. Devathanthri. Mr. Salgado also said that, the decision to “crash” the Desk Top Computer which contained the Data Base of the “Xtend Voice Logger System”, was a critical decision which would not have been taken without the knowledge of Mr. Aloysius.

The evidence shows that, on or about 06<sup>th</sup> July 2017, Mr. Devathanthri linked another Computer to the ACER Desk Top Computer which contained the Data Base of the “Xtend Voice Logger System” and then temporarily installed the “Xtend Voice Logger Application System” on to that other Computer at Perpetual Treasuries Ltd.

Thereafter, Mr. Devathanthri proceeded to “crash” the ACER Desk Top Computer which had contained the “original” Database of the “Xtend Voice Logger System”.

On 21<sup>st</sup> July 2017, Mr. Devathanthri configured the “Xtend Voice Logger Application System”, which was now on the “new” Computer.

Mr. Devathanthri said that, Mr. Kasun Palisena had informed him that, the Commission of Inquiry had requested Perpetual Treasuries Ltd to furnish Telephone Call Recordings relating to the period from January 2015 to September 2016.

Mr. Devathanthri had then copied the altered records of the “Xtend Voice Logger Application System” on to some other Compact Discs and these Compact Discs [ie: containing altered Records] had been submitted by Perpetual Treasuries Ltd, to the Commission of Inquiry.

Therefore, the original records of the “Xtend Voice Logger Application System” - ie: the records prior to the aforesaid deletion of some Wave Files and substitution of some other Wave Files and prior to the deletion of the Data Files - had not been submitted to the Commission of Inquiry by Perpetual Treasuries Ltd.

Thus, in response to the Order issued by the Commission of Inquiry requiring Perpetual Treasuries Ltd to submit all Recordings of Telephone Conversations, Perpetual Treasuries Ltd has submitted Recordings which had been tampered with and which were altered by removing the Data Files containing the Call Details and also by removing a large number of Wave Files containing Telephone Call Recordings which Perpetual Treasuries Ltd had identified were “*harmful*” to Perpetual Treasuries Ltd.

Mr. Salgado said that, Mr. Palisena, Mr. Salgado and Mr. Devathanthri were all aware that, the copies of Telephone Call Recordings submitted by Perpetual Treasuries Ltd to the Commission of Inquiry contained the “*edited wave files*” and were “*not the original call records, but the tampered call records.*”.

Mr. Salgado later submitted, to the Commission of Inquiry, the aforesaid Compact Discs which had been given to him by Mr. Devathanthri and which contained the original Telephone Call Recordings [ie: unaltered and unedited] of Perpetual Treasuries Ltd. Mr. Salgado said that he had handed these Compact Discs, which he had placed in four separate covers, to the officers assisting the Commission of Inquiry.

When Mr. Salgado gave evidence, these Compact Discs containing the original and unedited Telephone Call Recordings, were marked “**C238A**”, “**C238B**”, “**C238C**” and “**C238D**”.

These Compact Discs contain the original and unedited Telephone Call Recordings of Telephone Conversations of officers of Perpetual Treasuries Ltd with other persons and between these officers, during the periods: 20<sup>th</sup> May 2015 to 31<sup>st</sup> December 2015, 01<sup>st</sup> January 2016 to 31<sup>st</sup> May 2016, 01<sup>st</sup> June 2016 to 31<sup>st</sup> October and 01<sup>st</sup> November 2016 to 31<sup>st</sup> March 2017.

Having considered the evidence before us, including the evidence of Mr. Salgado, Mr. Devathanthri, Mr. Palisena, Mr. Dharmaratne, Chief Engineer of Metropolitan Communications (Pvt) Ltd and the abundance of evidence which conclusively demonstrates that, Mr. Arjun Aloysius was intimately involved with the day-to-day

operations and control of Perpetual Treasuries Ltd and that major decisions relating to Perpetual Treasuries Ltd were either taken by Mr. Aloysius or with his knowledge, we are satisfied that, the aforesaid decisions by Perpetual Treasuries Ltd: (i) to delete selected Telephone Call Recordings; (ii) to “crash” the ACER Desk Top Computer; and (iii) to submit, to the Commission of Inquiry, Recordings of Telephone Conversations which had been tampered with and which were altered by removing the Data Files containing the Call Details and also by removing a large number of Wave Files containing Telephone Call Recordings which Perpetual Treasuries Ltd had identified were “*harmful*” to Perpetual Treasuries Ltd; were taken by Mr. Kasun Palisena on the instructions of Mr. Arjun Aloysius and/or with the full knowledge of Mr. Aloysius. The evidence also establishes that, Mr. Nuwan Salgado and Mr. Sachith Devathanthri willingly carried out the instructions given to them by Mr. Kasun Palisena to do the aforesaid acts.

It is clear that, a substantial number of these Telephone Call Recordings were deleted during the period in which this Commission of Inquiry was carrying out the investigation and inquiry in terms of our Mandate.

The inevitable conclusion is that, Perpetual Treasuries Ltd and the aforesaid persons decided to delete the Telephone Call Recordings and to “crash” the ACER Desk Top Computer in an attempt to suppress the production of Telephone Call Recordings which were “*harmful*” to the interests of Perpetual Treasuries Ltd and, thereafter, submitted to the Commission of Inquiry, Recordings of Telephone Conversations which had been tampered with and which were altered.

The inevitable conclusion is also that, the Perpetual Treasuries Ltd and the aforesaid persons committed the aforesaid acts in an attempt to prevent this Commission of Inquiry and/or a Court of Law and/or the CBSL and/or other lawful authority, from examining those Telephone Call Recordings.

Thus, the evidence before us establishes that, Perpetual Treasuries Ltd and the aforesaid persons, wrongfully and fraudulently, deleted Call Recordings for the purpose of concealing the true nature of the Transactions entered into by Perpetual Treasuries Ltd and attempted to suppress evidence with regard to wrongful acts of Perpetual Treasuries Ltd.

As stated earlier, the evidence before us establishes that, Mr. Arjun Aloysius and Mr. Kasun Palisena were key persons responsible for the aforesaid acts and that Mr. Salgado and Mr. Devathanthri carried out the orders given to them by Mr. Palisena who acted on the instructions of and/or with the full knowledge of Mr. Arjun Aloysius when he issued those instructions.

We are of the view that, the Hon. Attorney General or other appropriate authorities should consider whether these acts amount to criminal offences under Chapter X and Chapter XI of the Penal Code, including Sections 175, 189, 193, 198 and 201 of the Penal Code read with Section 9 of the Commissions of Inquiry Act No. 17 of 1948 and, if considered so, institute appropriate prosecutions against the aforesaid persons.

Further, we note that, the Hon. Attorney General or other appropriate authorities should consider whether, Mr. Palisena's statements, in the Affidavit affirmed to by him and referred to earlier, where he declares that complete Telephone Call Recordings have been submitted to the Commission of Inquiry by Perpetual Treasuries Ltd, were false and, if that is the case, whether there are grounds for prosecutions under Section 179 and/or Section 188 of the Penal Code or other relevant provision of the Law, read with Section 9 of the Commissions of Inquiry Act No. 17 of 1948.

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## CHAPTER 30

### **WHAT HAPPENED TO PERPETUAL TREASURIES LTD'S PROFITS?**

Perpetual Treasuries Ltd obtained a License to operate as a Primary Dealer on 01<sup>st</sup> October 2013.

Perpetual Treasuries Ltd commenced Business in early 2014 and during the remaining few months of the Financial Year ended 31<sup>st</sup> March 2014, Perpetual Treasuries Ltd made a Net Loss of Rs. 3.7 Million.

During the next Financial Year from 01<sup>st</sup> April 2014 to 31<sup>st</sup> March 2015, Perpetual Treasuries Ltd made a Net Profit of Rs. 959.5 million.

In the next Financial Year from 01<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016, which falls within the period of our Mandate, the Net Profit made by Perpetual Treasuries Ltd rose remarkably sharply to Rs. 5.124 Billion.

In the following Financial Year commencing from 01<sup>st</sup> April 2016 and ending on 31<sup>st</sup> March 2017, the Net Profit made by Perpetual Treasuries Ltd increased further to Rs. 6.365 Billion.

Although this Financial Year is chronologically outside the period of our Mandate, the Profits made by Perpetual Treasuries Ltd during that period are relevant to us and can be properly considered as falling within the ambit of our Mandate, for the reason that, the evidence shows that a major part of this Profit was realised by the disposal of Treasury Bonds acquired by Perpetual Treasuries Ltd during the period of our Mandate.

The aforesaid data is reflected in the Audited Balance Sheets and Draft Accounts submitted by Perpetual Treasuries as part of the documents in the series marked “**C239**” and also the data which has been made available to us by the CBSL.

From 01<sup>st</sup> February 2015 onwards, CBSL has declared and paid a First and Final Interim Dividend of Rs. 200.22 million [Net Dividend of Rs. 180.198 million After Tax] for the Financial Year ended 31<sup>st</sup> March 2015; and a First Interim Dividend of Rs. 25.56 million [Net Dividend of Rs. 23.004 million After Tax], and a Second Interim Dividend of Rs. 100.11 million [Net Dividend of Rs. 90.099 million After Tax]; and a Final Dividend of Rs. 386.950 million [Net Dividend of Rs. 348.255 After Tax], for the Financial Year ended 31<sup>st</sup> March 2016.



Thus, the aggregate Net Dividends paid by Perpetual Treasuries Ltd during the period relevant to our Mandate, amount to a total sum of Rs. 641.556 million.

As observed in Chapter 15 above, the beneficial ownership in Perpetual Treasuries Ltd has been held by the father-son duo of Mr. Geoffrey Aloysius and Mr. Arjun Aloysius, in equal shares, during the period of our Mandate. We believe that, the position continues to be so.

Thus, we consider that, we are entitled to conclude that the aforesaid sum of Rs. 641.556 million, which was paid by way of Dividends to Perpetual Treasuries Ltd during the period relevant to our Mandate, has been received by Mr. Geoffrey Aloysius and Mr. Arjun Aloysius, in equal shares or has accrued to the benefit of Mr. Geoffrey Aloysius and Mr. Arjun Aloysius, in equal shares.

We note that Perpetual Treasuries Ltd has, by using the Profits received during the period of relevant to our Mandate, acquired approximately 7.633 million shares in NDB Bank PLC, which would have a Market Value in excess of Rs. 1 billion, at present.

We note from the evidence of Mr. Palisena, that, Perpetual Treasuries Ltd together with its Associates, have also acquired Shares in Central Finance Company PLC and Lanka Ashok Leyland PLC and we consider that these acquisitions are likely to have been made using Profits received by Perpetual Treasuries Ltd, during the period of relevant to our Mandate.

Further, the evidence establishes that Perpetual Treasuries Ltd had made substantial transfers of Profits to Perpetual Capital Holdings (Pvt) Ltd, Perpetual Capital (Pvt) Ltd and W.M. Mendis & Co. Ltd and other Companies within the Group.

We should state here that, in view of the determinations we have made that, Perpetual Treasuries Ltd has engaged in a series of wrongful actions which resulted in the aforesaid Profits made by Perpetual Treasuries Ltd during the period relevant to our Mandate, we intend to recommend that, appropriate Proceedings be instituted against Perpetual Treasuries Ltd, *inter alia*, for the recovery of monies received by Perpetual Treasuries Ltd.

Doing so will, *inter alia*, require the recovery of the aforesaid sum of Rs. 641.556 million paid by way of Dividends which has been received by or which has accrued to the benefit of Mr. Geoffrey Aloysius and Mr. Arjun Aloysius; the appropriation and liquidation of the shares held by Perpetual Treasuries Ltd in NDB; and the appropriation and liquidation of other assets of Perpetual Treasuries Ltd.

Finally, we consider it relevant to state here that, we are aware that there have been speculations, among sections of the public, with regard to whether a part of the Profits made by Perpetual Treasuries Ltd during the period of our Mandate have been transferred to a political party or to persons in the political arena.

In view of these speculations, we obtained the Financial Statements and Statements of the Bank Accounts of Perpetual Treasuries Ltd and its Associate Companies, so that these Financial Statements and Statements of the Bank Accounts could be examined to ascertain whether, upon a perusal of those documents, there were indications of unusual and high value transfers of funds which *ex facie* do not appear to have been done in the course of business of the Companies.

These Financial Statements and Statements of the Bank Accounts have been examined, over a period of time, by the officers of the Attorney General's Department who assisted the Commission of Inquiry.

The aforesaid perusal of the Financial Statements and Statements of the Bank Accounts of Perpetual Treasuries Ltd and its Associate Companies did not indicate that there have unusual and high value transfers of funds which *ex facie* do not appear to have been done in the course of business of the Companies.

In any event, in view of the aforesaid speculation, we specifically questioned the Chairman and Secretary of United National Party and the Hon. Prime Minister whether that political party or any member of that party had received financial contributions from Perpetual Treasuries Ltd or its Associate Companies.

All three witnesses emphatically answered that, they were unaware of any such transactions.

No material has been placed before us which suggests that, this evidence is incorrect.

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**THE RECENTLY INTRODUCED “HYBRID SYSTEM” FOR THE ISSUE OF  
TREASURY BONDS.**

At the first Monetary Board Meeting attended by Dr. Indrajith Coomaraswamy as Governor on 13<sup>th</sup> July 2016, the Board Paper titled, “Introduction of Non-Competitive Bidding to Primary Auctions of Government Securities”, was considered and the following matters were brought to the attention of the Monetary Board.

**“4. Further improvement proposed to the Primary Auction System**

*4.1. Full auction system contains competitive bidding by PDs. Given the limited investor base and lack of modern market infrastructure, certain concerns are raised requiring alternative bidding systems and market segmentations to facilitate funds raising at stable and reasonable costs. Some of these concerns are as follows:*

- a. During times of rising interest rates or high funding requirements, speculative yield rates increase borrowing costs to the government if the market liquidity is not adequate. This concern is specially raised at present due to rising yield rates consequent to current tightened monetary policy and high level of funding requirement. Therefore, alternative funding arrangements to reduce the pressure on yield rates without suppressing the auction system and transparency would help stabilize the market in such times.*
- b. PDs and institutional investors do not have skills to submit bids in line with market as the market information is not adequately available, specially lack of secondary market information. Therefore, risks of non-acceptance of bids at auctions are high.*
- c. Yield rates at auctions may vary in a wide range due to bidding behaviour to achieve high yields with bids divided in to a number of smaller bids. Investors securing varying yield rates, when funding requirements are high, may cause unhealthy competition at auctions.*
- d. As secondary market is not transparent, lack of information on current market conditions to decide yield rates on bids in line with market conditions.*

- 4.2. *In view of the above, it is proposed to introduce a non-competitive bidding option to the current primary auction system in order to explore whether those concerns could be addressed over a period of time until market develops with systems, outreach and transparency in the medium to long-term.*
- a. *normal auction is announced to the public with open options for competitive bids and non-competitive bids.*
  - b. *In competitive bids, PDs can submit bids with yield rates/ price and investment amount as per current system. In addition, they can bid amounts without yield rate/ Price for each security for the auction. All non-competitive bids will be accepted at weighted average yield rates decided at the current auction of competitive bids.*
  - c. *Total amount of all non-competitive will be calculated first. Then, competitive bids will be considered for raising the balance funding requirement in line with the prevailing market interest rates. The cut-off yield rate will be decided accordingly for competitive bids as per the current system and the relevant weighted average yield rate will be applied for all non-competitive bids. In the event, all competitive bids are rejected, the weighted average yield of the latest auction within two weeks will be applied for non-competitive bids.*
  - d. *Actual funding requirement will be announced for auctions.*
  - e. *It is anticipated that institutional investors may opt for more non-competitive bidding as their skills to forward bids to be successful and treasury management are limited. In the event competitive bids are not accepted, investment of funds not accepted at auctions immediately will involve internal difficulties where they may lose return interim.*
- 4.3. *Two possible issues due to non-competitive bids will be as follows.*
- a. *PDs will attempt to inflate opening bid yields to get a high weighted average fixed in order for non-competitive bids to secure a high yield rate. In order to address this concern, supervision will be tightened to examine PDs and their procedure for bidding and to avoid unreasonable bids at speculative rates.*
  - b. *As institutional investors are now familiar with the primary market bidding to avoid low rates offered in the secondary market and they are satisfied with bidding risk free weighted average yield, participation in the non-competitive bids may increase and secondary market activity may tend to decline. Therefore, PDs will have to find a new investor base.*

- 4.4. *Monthly meeting with PDs and large institutional investors will be conducted to create awareness on market developments among them. However, no price guidance will be provided to the market. PDD officials will not entertain any discussions on auctions in offer. In addition, the PDD will undertake regular public awareness through print media to enhance the public awareness on investments in government securities and auction system.*
- 4.5. *The minimum bidding requirement of 10% of the amount announces will be reduced to 5% and PDs will be required to submit reasonable bids at yield rates in line with the market.*

## **5. Recommendation**

*In view of the above, the Monetary Board is invited to introduce the non-competitive bidding option as proposed in para 4.2 above with immediate effect.”.*

The CBSL carefully studied and evaluated these proposals in the course of a process which spanned a year. This process included obtaining the advice of Consultants from the US Treasury Department and the World Bank, discussions with the EPF and Primary Dealers and presentations to the Hon. Prime Minister and the Cabinet Committee and Sub Committee on Economic Management.

After the completion of this careful and considered exercise, the CBSL implemented, on 25<sup>th</sup> July 2017, a new Primary Issuance System for Treasury Bonds.

As set out in the Press Release, dated 25<sup>th</sup> July 2017, titled, “New Primary Issuance System for Treasury Bonds”, the CBSL described this new Primary Issuance System for Treasury Bonds, as follows:

*“The Central Bank of Sri Lanka will introduce a new primary issuance system for Treasury bonds (T-bonds). Effective from July 27, 2017, the new system replaces the existing fully auction based issuance system of T-bonds, that has been in practice since February 2015. The main purpose of introducing the new system is to further enhance the efficiency and transparency of the domestic borrowings of the Government.*

*The new system is more structured and includes regular monthly T-bond auctions. Each monthly auction offers two T-bond series of different maturities and tenures of the series are expected to match the resource availability in the market.*

*Issuance under each series takes effect in three or less sequential phases depending on the outcome of each preceding phase. Phase I explores issuance of the entire announced volume in a competitive multiple price auction system through reasonable*

*market bids. However, in the event of any under allocation at Phase I, the Phase II opens for voluntary, volume based bidding. Issuance under Phase II is made at Weighted Average Yield Rate (WAYR) determined at Phase I and is limited to any under allocation at Phase I vis-à-vis the offered amount. If oversubscribed issuance at Phase II takes effect proportionate to performance of auction participants at Phase I. All Primary Dealers (PDs) and other authorized participants at primary issuances are eligible for submission of bids under Phase II.*

*At Phase III, any under allocation at Phase I and Phase II, if any, is issued on a mandatory basis at WAYR only among PDs. However, execution of Phase III will only be limited to instances where accepting 60 per cent of the offered amount in minimum at Phase I. Issuance at Phase III to any PD is inversely proportionate to its ratio of success at Phase I and Phase II.*

*In addition, a new performance review mechanism will be introduced to assess the effective participation of PDs.*

*Meanwhile, in order to improve the investment planning of PDs and investors at large, a quarterly T-bond auction calendar will be published at the Central Bank of Sri Lanka website in advance.”.*

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## CHAPTER 32

### **DETERMINATION AND REPORT ON THE ISSUES STATED IN THE MANDATE**

A perusal of the Presidential Warrant dated 27<sup>th</sup> January 2017 issued to us makes it clear that, we are required to investigate, inquire into and report on the 10 specified Issues “*in respect of*” or “*relating to*” or “*in relation to*” the “*matter referred to in the Schedule*”.

The “*matter referred to in the Schedule*” to the Presidential Warrant is stated, in the Schedule, to be:

“ 1. *The issuance of Treasury Bonds during the period of 1<sup>st</sup> February 2015 and 31<sup>st</sup> March 2016 (hereinafter referred to as “such treasury bonds”);*

*(c) The decision making processes that preceded the issuance of such treasury bonds including the decisions relating to -*

- (vi) the sum of money to be raised by each such treasury bond issue;*
- (vii) the rate of interest payable on such treasury bonds or the method of determination of the rate of interest payable;*
- (viii) the dates on which interest on such treasury bonds shall be payable;*
- (ix) the rate at which, and the periods at the end of which, appropriation out of the Consolidated Fund and assets of Sri Lanka shall be made as a contribution to the sinking fund established for the purpose of redeeming such treasury bonds and the date from which such contributions shall commence;*



(x) *The date of redemption of such treasury bonds.*

(d) *The disposal of such treasury bonds by the Primary Dealers, Direct Participants or Dealer Direct Participants.”.*

Thus, it is evident that, there are the following two distinct and different `subjects' which we are required, by the terms of the Mandate issued to us, to investigate and inquire into and report on.

[1] The **“decision making processes”** that preceded the **“issuance”** of Treasury Bonds [*ie: in the Primary Market*] during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016 including:

- (i) The decisions with regard to the sum of money to be raised by each issue of Treasury Bonds during this period;
- (ii) The decisions with regard to the Rate of Interest payable on Treasury Bonds issued during this period or the method by which this Rate of Interest is determined;
- (iii) The decisions with regard to the dates on which Interest is payable on Treasury Bonds issued during this period;
- (iv) The decisions with regard to the Rates at which, and the periods at the end of which, appropriation out of the Consolidated Fund and Assets of Sri Lanka shall be made as a Contribution to a Sinking Fund established for the purpose of redeeming Treasury Bonds issued during this period and the date from which such Contributions shall commence;
- (v) The decisions with regard to the dates of redemption of Treasury Bonds issued during this period.

- [2] The “**disposal**” of Treasury Bonds issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016, to “**Primary Dealers, Direct Participants or Dealer Direct Participants.**” [ie: in the Secondary Market].

Next, as specified by Presidential Warrant issued to us, we are required to report with regard to 10 specific Issues - ie: Issues (a) to (j) which are stated in the Presidential Warrant - which are on the two ‘subjects’ described in Item [1] and [2] above.

These 10 Issues (a) to (j) are listed in the Presidential Warrant, as:

- (a) *The management, administration and conduct of affairs of the Central Bank of Sri Lanka Bank of Sri Lanka [CBSL] in respect of the matter referred to in the Schedule to the Presidential Warrant;*
- (b) *Whether there has been any malpractice or irregularity, or non-compliance with or disregard of the proper procedures applicable in relation to, such management, administration and conduct of affairs in relation to the said matter referred to in the said Schedule, resulting in damage or detriment to the Government or any statutory body including the CBSL;*
- (c) *Whether any contractual obligations relating to the matter referred to in the said Schedule, have been entered into or carried out, fraudulently, recklessly, negligently or irresponsibly, resulting in damage or detriment to the Government or any statutory body including the CBSL;*
- (d) *Whether there has been non-compliance with, or disregard of, the proper procedure applicable to the calling of tenders or the entering into of agreements or contracts relating to the matter referred to in the said Schedule, on behalf of the Government;*
- (e) *Whether such non-compliance with, or disregard of proper procedures in respect of the matter referred to in the said Schedule, has resulted in the improper or irregular or discriminatory award of any such tender for the sale of Treasury Bonds referred to in the said Schedule;*
- (f) *Whether proper procedures and adequate safeguards have been adopted to ensure that the matter referred to in the said Schedule resulted in obtaining the optimum price or benefit for the Government;*

- (g) *The person or persons responsible for any act, omission or conduct, which has resulted in such damage or detriment to the Government or any statutory body including the CBSL, in respect of the said matter referred to in the said Schedule;*
- (h) *Whether any inquiry or probe into the matter referred to in the said Schedule had been obstructed or prevented in any manner, resulting in damage or detriment to the Government or any statutory body including the CBSL, and if so, the person or persons responsible for such obstruction;*
- (i) *The procedures which should be adopted in the future to ensure that matters such as those referred to in the said Schedule are carried out with transparency and with proper accountability with a view to securing the optimum price or benefit for the Government;*
- (j) *Whether there has been any misuse or abuse of power, influence, Interference, fraud, malpractices, nepotism or any act or omission connected with corrupt activity in relation to the matter referred to the said Schedule.*

We are obliged to report on the aforesaid 10 Issues, as they are framed and stated in the Presidential Warrant.

It is evident that, the aforesaid two 'subjects' and the aforesaid 10 Issues thereon are all based on and limited to the Treasury Bonds issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016.

**The “*decision making processes*” that preceded the “*issuance*” of Treasury Bonds [ie: in the Primary Market] during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016.**

As stated earlier, a few Treasury Bonds were issued by accepting Direct Placements during the period from 01<sup>st</sup> February 2015 to 27<sup>th</sup> February 2015. We are satisfied that these Direct Placements were properly accepted and that there was no irregularity or impropriety in the acceptance of these Direct Placements during the period from 01<sup>st</sup> February 2015 to 27<sup>th</sup> February 2015.

Thereafter, the practice of accepting Direct Placements ceased from 27<sup>th</sup> February 2015 onwards until the end of the period of our Mandate.

In these circumstances, we are not required to further examine the issue of Treasury Bonds by the acceptance of Direct Placements, when we report on the aforesaid 10 Issues.

From 27<sup>th</sup> February 2015 onwards and during the entire period of our Mandate, Treasury Bonds were issued only by way of Auctions.

Therefore, we are only required to examine the issue of Treasury Bonds at Auctions held during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016, when we report on the aforesaid 10 Issues.

In order to report on the aforesaid 10 Issues, we should first refer to the fact that, as stated in Section 19.1 of Chapter 19 above, during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016, the CBSL held Auctions of Treasury Bonds on 45 days at which 127 Offers were made for the issue, by way of Auction, of Treasury Bonds with various ISINs.

As stated in Chapter 19, the Procedure followed by the CBSL at a Treasury Bond Auction is, in brief: first, all Primary Dealers and the Public are notified of a Treasury Bond Auction; the Auction is opened at 8.30 am; Bids are placed by Primary Dealers via an Electronic System used by the PDD; the Auction is closed at 11am; thereafter, the Bids are evaluated by the senior officers of the PDD who make their recommendations to the Tender Board with regard to the amount of the Bids which should be accepted; the Tender Board, which comprises of senior officers of the Bank with a wealth of experience and expertise in the several areas of operations of the CBSL which are connected with Public Debt, consider the recommendations of the PDD and decide the amounts of the Bids that are to be accepted; finally, the Governor considers and approves the decision of the Tender Board.

We note that, the aforesaid Procedures are designed to ensure that, the decision-making process in an Auction of Treasury Bonds is conducted in a manner in which:

- i. The PDD prepares its own independent assessment of the Auction and decides on its recommendation of the value of Treasury Bonds that should be accepted at the Auction;
- ii. Thereafter, the Tender Board considers these recommendations and arrives at its own decision, by drawing on the experience of its members;
- iii. Finally, the decision of the Tender Board is submitted to the Governor for his consideration and approval.

This Procedure has been designed to ensure that, in the first instance, the decision-making process utilizes the knowledge and technical skills of the officers of the PDD who have an intimate knowledge of the day-to-day operations of the Market and technical skills in the raising of Public Debt. Thereafter, at the second stage, this Procedure utilizes the range of skills, greater experience and breadth of knowledge of the members of the Tender Board, to assess the recommendations of the PDD and arrive at a considered decision with regard to the Bids to be accepted an Auction. Finally, at the third stage, the decision of the Tender Board is considered by the Governor who retains the authority to arrive at a final decision and can, if he considers it necessary, request the Tender Board to reconsider its decision in the light of additional information the Governor may possess or factors which the Governor considers are relevant.

As stated earlier, we are of the view that, this process, if properly followed without impropriety on the part of the persons involved in the process and/or interference by third parties, would ensure that, the CBSL reaches a proper and prudent decision when Bids are accepted at Treasury Bond Auctions.

As further stated in Section 19.1 of Chapter 19, we examined all 127 Offers for Treasury Bonds made at the Auctions held on 45 days during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016, to ascertain whether the evidence placed before us suggests that there has been any unusual feature or irregularity or impropriety in the conduct of those 127 Auctions.

As stated in Section 19.1 of Chapter 19, this examination resulted in our conclusion that:

- (i) In the case of 117 of these Auctions, there has been no evidence placed before us which suggests that there was any unusual feature or irregularity or impropriety in the conduct of those 117 Auctions;
- (ii) However, in the case of 10 of these Auctions, we concluded that, we were required to scrutinize these Auctions closely and ascertain whether, in fact, there has been irregularity or impropriety in the conduct of one or more of those 10 Auctions.

These 10 Auctions are:

- (a) The Auction held on 27<sup>th</sup> February 2015 at which Treasury Bonds bearing ISIN LKB003045C013 to the value of Rs. 1 billion were offered and Bids to the value of Rs.10.058 billion were accepted and

a/so Perpetual Treasuries Ltd obtained 50% of the Treasury Bonds issued at that Auction;

- (b) The Auction held on 08<sup>th</sup> September 2015 at which Treasury Bonds bearing ISIN LKB101231019 were offered and Perpetual Treasuries Ltd obtained 45% of the Treasury Bonds that were issued at that Auction and after the Auction, there have there been unusual Transactions in the Secondary Market;
- (c) The Auction held on 15<sup>th</sup> September 2015 at which Treasury Bonds bearing ISIN LKB00922J011 were offered and Perpetual Treasuries Ltd obtained 37% of the Treasury Bonds that were issued at that Auction and after the Auction there have been unusual transaction in the Secondary Market;
- (d) The Auction held on 30<sup>th</sup> October 2015 at which Treasury Bonds bearing ISIN LKB01530E152 were offered and Pan Asia Banking Corporation PLC obtained 45% of the Treasury Bonds that were issued at that Auction and after the Auction there have been unusual transactions in the Secondary Market;
- (e) The Auction held on 05<sup>th</sup> February 2016 at which Treasury Bonds bearing ISIN LKB02541A016 were offered and Perpetual Treasuries Ltd obtained 61% of the Treasury Bonds that were issued at that Auction and after the Auction there have been unusual transactions in the Secondary Market;
- (f) The Auction held on 29<sup>th</sup> March 2016 at which Treasury Bonds bearing ISIN LKB01025C157 were offered and Perpetual Treasuries Ltd obtained 39% of the Treasury Bonds that were issued at that Auction;
- (g) The Auction held on 29<sup>th</sup> March 2016 at which Treasury Bonds bearing ISIN LKB01226F014 were offered and Perpetual Treasuries Ltd obtained 45% of the Treasury Bonds that were issued at that Auction;
- (h) The Auction held on 29<sup>th</sup> March 2016 at which Treasury Bonds bearing ISIN LKB01530E152 were offered and Perpetual Treasuries Ltd obtained 36% of the Treasury Bonds that were issued at that Auction;

- (i) The Auction held on 31<sup>st</sup> March 2016 at which Treasury Bonds bearing ISIN LKB00821H019 were offered and Acuity Securities Ltd obtained 53% of the Treasury Bonds that were issued at that Auction;
- (j) The Auction held on 31<sup>st</sup> March 2016 at which Treasury Bonds bearing ISIN LKB01528I017 were offered and Perpetual Treasuries Ltd obtained 69% of the Treasury Bonds that were issued at that Auction.

In Section 19.3, Section 19.4 and Section 19.5 of Chapter 19, we have examined and reported on each these Auctions, in detail.

When we report on Issues (a) to (j) on the 'subjects' described in Item [1] and Item [2] above, we will consider those 10 Auctions and the Treasury Bonds issued at those 10 Auctions.

For the reasons set out earlier, we do not consider it relevant or necessary to consider the other 117 Auctions where there is no evidence which suggests that there was any irregularity or impropriety in the conduct of those Auctions.

We will first report on Issues (a) to (j) on the 'subject' described in Item [1] above - namely, the "*decision making processes*" that preceded the "*issuance*" of Treasury Bonds [*ie: in the Primary Market*] during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016. Thereafter, we will report on Issues (a) to (j) on the 'subject' described in Item [2] above - namely, the "*disposal*" of Treasury Bonds issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016, to "*Primary Dealers, Direct Participants or Dealer Direct Participants.*" [*ie: in the Secondary Market*].

When doing so, we will only refer to the relevant Chapters of this Report [or Sections in Chapters of this Report] which set out the evidence, determinations and findings, which are relevant to the Issue which is being considered. We do not consider it necessary to reiterate those matters here. If a reader of this Report wishes, he or she could peruse the relevant Chapters of this Report [or Sections in Chapters of this Report] and obtain a fuller understanding of the background in which we set out our report on the Issue which is being considered.



(i) **The decisions with regard to the sum of money to be raised by each issue of Treasury Bonds during this period**

There are two decisions which are taken with regard to the sum of money to be raised by an issue of Treasury Bonds at an Auction.

Firstly, the value of Treasury Bonds which are to be offered at the Auction has to be decided and then the Notice of the Auction has to be published. Secondly, once the Auction is closed, the value of Bids which are to be accepted and for which value Treasury Bonds will be issued, has to be decided.

We will now consider and report on Issues (a) to (i) on the aforesaid subject.

(a) ***The management, administration and conduct of affairs of the Central Bank of Sri Lanka [CBSL] in respect of the matter referred to in the Schedule to the Presidential Warrant.***

Issue (a) requires us to report on “*the management, administration of and conduct of affairs of the CBSL*” relating to the decisions taken with regard to: (i) the value of Treasury Bonds which were *offered* at the Treasury Bond Auctions held during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016; and (ii) the value of Bids *accepted* at Treasury Bond Auctions held during this period and for which value Treasury Bonds were *issued*.

In Chapter 7 [“Treasury Bills, Treasury Bonds and other Government Securities”], Chapter 8 [“The Public Debt Department”], Chapter 10 [“Raising Funds for the Government each month”] and Chapter 11 [“The Primary Market in Treasury Bonds - Auctions and Direct Placements - the merits and demerits of these two modes of issue”], we have set out a Report on the manner in which the CBSL issues Treasury Bonds including the manner in which decisions were taken with regard to: (i) the value of Treasury Bonds which were offered at the Treasury Bond Auctions held during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016; and (ii) the value of Bids accepted at Treasury Bond Auctions held during this period and for which value Treasury Bonds were issued.

In Section 19.2, Section 19.3, Section 19.4 and Section 19.5 of Chapter 19, we have examined and reported on the “*the management, administration of and conduct of affairs of the CBSL*” with regard to each

of the aforesaid 10 Auctions which were identified as requiring a close scrutiny:

As stated earlier, we do not consider it necessary to reiterate those matters here. If a reader of this Report wishes, he or she could peruse Chapter 7, Chapter 8, Chapter 10, Chapter 11 and Section 19.2, Section 19.3, Section 19.4 and Section 19.5 of Chapter 19.

- (b) ***Whether there has been any malpractice or irregularity, or non-compliance with or disregard of the proper procedures applicable in relation to, such management, administration and conduct of affairs in relation to the matter referred to in the said Schedule, resulting in damage or detriment to the Government or any statutory body including the CBSL.***

With regard to the aforesaid **Auction held on 27<sup>th</sup> February 2015**, as stated in Section 19.2.5 of Chapter 19:

- [1] We have held that, Mr. Mahendran knowingly acted improperly and wrongfully by intervening in the aforesaid Procedure established by the CBSL to ensure transparent, proper and prudent decision-making when accepting Treasury Bonds at Auction and (i) instructing the PDD to accept Bids to the value of Rs.10.058 billion, which resulted in the PDD making that recommendation to the Tender Board; and (ii) instructing Deputy Governor Samarasiri, who was the Chairman of the Tender Board, that Bids to the value of Rs.10.058 billion should be accepted;
- [2] We have held that, there was no necessity for the CBSL to accept Bids to the value of Rs. 10.058 billion at the Treasury Bonds Auction held on 27<sup>th</sup> February 2015, especially since accepting Bids to this value resulted in accepting Bids at high Yield Rates and raising the Weighted Average Yield to 11.7270;
- [3] We have held that, the CBSL accepted Bids to the value of Rs.10.058 billion at the Treasury Bond Auction held on 27<sup>th</sup> February 2015, only due to and as a direct result of Mr. Mahendran's aforesaid instruction;
- [4] We have held that, no decision was taken at the "Breakfast Meeting" held on 26<sup>th</sup> February 2015, to raise money for Road Projects at the Auction of Treasury Bonds held on 27<sup>th</sup> February 2015 and that, Mr. Mahendran's claim made to the PDD and

Tender Board that, it was necessary to accept Rs. 10 Billion to meet additional Government fund requirements, has been demonstrated to be false;

- [5] We have held that, Deputy Governors Silva and Weerasinghe were negligent and were in breach of their responsibilities as Deputy Governors of the CBSL when, during their visit to the PDD with Mr. Mahendran, they remained silent and did not counsel Mr. Mahendran to desist from the aforesaid course of action or, at the very least, record their opposition to the direction he issued to the PDD to accept Bids to the value of Rs. 10.058 billion;
- [6] We have held that, Deputy Governor Samarasiri was grossly negligent and in grave breach of the duty and responsibility he had, as the Chairman of the Tender Board, to ensure that the Tender Board reached an independent and considered decision, when he supinely obeyed the instructions given by Mr. Mahendran to accept Bids to the value of Rs. 10.058 billion. Thereby, Mr. Samarasiri negated the whole purpose for which the Tender Board was constituted.
- [7] We have held that, as a direct result of Mr. Mahendran's direction given to the PDD to accept Bids to the value of Rs. 10.058 billion, Perpetual Treasuries Ltd obtained Treasury Bonds to an aggregate value of Rs. 5 billion at low Bid Prices ranging from 97.87800 to 91.99280 and high Yield Rates [Net of Tax] ranging from 11.5002 to 12.5009, at the Treasury Bond Auction held on 27<sup>th</sup> February 2015, which were very attractive Bid Prices and Yield Rates for any Primary Dealer;
- [8] We have held that, since Mr. Mahendran perused the Bids Received Sheet prior to issuing his aforesaid instruction to accept Bids to the value of Rs. 10.058 billion, Mr. Mahendran knew that, as a result of his direction, Perpetual Treasuries Ltd would succeed in obtaining Treasury Bonds at high Yield Rates;
- [9] We have determined that, Mr. Mahendran directed that Bids to the value of Rs. 10.058 billion be accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 for the improper and wrongful collateral purpose of enabling Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds at that Auction, at low Bid Prices and high Yield Rates;

[10] We have held that, Perpetual Treasuries Ltd had “inside information” [or “price sensitive information”] that, a very large amount of Bids would be accepted at that Auction;

[11] We have held that, Perpetual Treasuries Ltd acted upon “inside information” [or “price sensitive information”] when it placed Bids for an unprecedented value of Rs. 15 billion at an Auction at which only Rs. 1 billion had been offered;

We have also held that, Mr. Mahendran was the source from which Perpetual Treasuries Ltd obtained this “inside information” [or “price sensitive information”];

[12] Accordingly, we have held that, Mr. Mahendran acted wrongfully, improperly, *mala fide*, fraudulently and in gross breach of his duties as Governor of the CBSL when: (i) he instructed that, Bids to the value of Rs.10.058 billion be accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015, for the improper and wrongful collateral purpose of enabling Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds at that Auction at low Bid Prices and high Yield Rates; and (ii) when Mr. Mahendran provided “inside information” [or “price sensitive information”] to Perpetual Treasuries Ltd that, Bids to a very high value would be accepted at that Treasury Bond Auction even though only a sum of Rs. 1 billion had been offered at the Auction.

We have further held that, Mr. Mahendran committed the aforesaid wrongful, improper, *mala fide* and fraudulently acts which were in gross breach of his duties as Governor of the CBSL, with the knowledge of and acting in collusion with Perpetual Treasuries Ltd.

If a reader of this Report wishes, he or she could peruse Section 19.2.5 of Chapter 19 where we have set out, in detail, the evidence upon which we made the aforesaid determinations.

With regard to the aforesaid **Auctions held on 08<sup>th</sup> September 2015, 15<sup>th</sup> September 2015 and 30<sup>th</sup> October 2015**, we have, as stated in Section 19.3 of Chapter 19, determined that:

[1] We have not found evidence of any irregularity or impropriety in conduct of these Auctions and the issue of Treasury Bonds at these Auctions.

If a reader of this Report wishes, he or she could peruse Section 19.3 of Chapter 19 where we have set out the evidence upon which we made the aforesaid determination.

Our determinations with regard to the Transactions in the Secondary Market upon Treasury Bonds issued at these Auctions will be considered when we deal with `subject' described in Item [2] above - namely, the "*disposal*" of Treasury Bonds issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016, to "*Primary Dealers, Direct Participants or Dealer Direct Participants.*" [*ie: in the Secondary Market*].

With regard to the aforesaid **Auctions held on 05<sup>th</sup> February 2016**, we have, as stated in Section 19.4 of Chapter 19, determined that:

- [1] We have not found evidence of any irregularity or impropriety in conduct of this Auction and the issue of Treasury Bonds at these Auction.

If a reader of this Report wishes, he or she could peruse Section 19.4 of Chapter 19 where we have set out the evidence upon which we made the aforesaid determination.

Our determinations with regard to the Transactions in the Secondary Market upon Treasury Bonds issued at this Auction will be considered when we deal with `subject' described in Item [2] above - namely, the "*disposal*" of Treasury Bonds issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016, to "*Primary Dealers, Direct Participants or Dealer Direct Participants.*" [*ie: in the Secondary Market*].

With regard to the aforesaid **Auctions held on 29<sup>th</sup> March 2016** as stated in Section 19.5.6 of Chapter 19:

- [1] We have held that, upon a careful consideration of the totality of the evidence before us, we do not see any *ex facie* irregularity in the decision-making process which led to the CBSL accepting Treasury Bonds with an aggregate value of Rs. 77.732 billion at the Treasury Bonds Auction held on 29<sup>th</sup> March 2016.
- [2] We have held that, Mr. Arjun Aloysius issued detailed instructions to Perpetual Treasuries Ltd with regard to the manner in which

Perpetual Treasuries Ltd should place Bids at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016;

- [3] We have held that, Mr. Arjun Aloysius had “inside information” [or “price sensitive information”] provided to him by a person or persons within the CBSL as to the likely “Cut Off Rates” up to which the CBSL would accept Bids at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016;
- [4] We have held that, Mr. Arjun Aloysius had “inside information” [or “price sensitive information”] provided to him by a person or persons at the National Savings Bank and/or Bank of Ceylon or elsewhere that, the State Banks had been instructed to place Bids at low Yield Rates and were, therefore, likely place restricted Bids at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016;
- [5] We have held that, Perpetual Treasuries Ltd used this “inside information” [or “price sensitive information”] to help Perpetual Treasuries Ltd obtain a high value of Treasury Bonds bearing ISIN LKB01025C157, ISIN LKB01226F014 and ISIN LKB01530E152, at high Yield Rates at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016;
- [6] We have held that, there are grounds to suspect that, the EPF placed Bids for very low values at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016, in order to help Perpetual Treasuries Ltd obtain a high value of Treasury Bonds at high Yield Rates and we have recommended that, this matter be investigated.

As stated earlier, we do not consider it necessary to reiterate those matters here. If a reader of this Report wishes, he or she could peruse Section 19.5 of Chapter 19.

With regard to the aforesaid **Auctions held on 31<sup>st</sup> March 2016** as stated in Section 19.5.8 of Chapter 19:

- [1] We have held that, upon a careful consideration of the totality of the evidence before us, we do not see any *ex facie* irregularity in the decision-making process which led to the CBSL accepting Treasury Bonds with an aggregate value of Rs. 50.010 billion at the Treasury Bonds Auction held on 31<sup>st</sup> March 2016;

- [2] We have held that, we have no direct or circumstantial evidence before us which establishes or suggests that, Perpetual Treasuries Ltd had “inside information” [or “price sensitive information”] regarding the “Cut Off Rates” or other relevant details regarding the decision making process of the CBSL at this Treasury Bond Auction held on 31<sup>st</sup> March 2016 or that Perpetual Treasuries Ltd had “inside information” [or “price sensitive information”] regarding the instructions given to the three State Banks at the meeting held, on 30<sup>th</sup> March 2016, at the Ministry of Finance;
- [3] We have held that, in view of the fact that Treasury Bonds with short Tenors were offered at the Auction held on 31<sup>st</sup> March 2016 and the evidence establishes that, the EPF usually invests in Treasury Bonds with longer Tenors, we do not regard as unusual, the fact that, the EPF did not place more Bids at the Treasury Bond Auction held on 31<sup>st</sup> March 2016.

As stated earlier, we do not consider it necessary to reiterate those matters here. If a reader of this Report wishes, he or she could peruse Section 19.5.8 of Chapter 19.

With regard to the decision taken by Mr. Mahendran, on 27<sup>th</sup> February 2017, to **suspend or stop Direct Placements**, as stated in Section 19.5.8 of Chapter 19:

- [1] Mr. Mahendran acted improperly and in excess of his authority when he unilaterally and without the prior approval of the Monetary Board, directed the suspension or stoppage of Direct Placements with immediate effect from 27<sup>th</sup> February 2015;
- [2] Mr. Mahendran acted irresponsibly and, in fact, recklessly, when he suddenly directed the total suspension or stoppage of Direct Placements on 27<sup>th</sup> February 2015, without having first instructed the relevant Departments of the CBSL to study and report on the workings of the system of Direct Placements and ascertain the effect which a suspension or stoppage of Direct Placements would have on the Market and determine the manner in which any proposed suspension or stoppage of Direct Placements should be implemented;



[3] The sudden removal of Direct Placements had a significant impact on the Market, which by then was well used to the entrenched practice of CBSL issuing Treasury Bonds through the Direct Placements window;

[4] The cumulative result of the sudden suspension or stoppage of Direct Placements and the acceptance of Rs. 10.058 billion at high Yield Rates of up to 12.5009 and at a Weighted Average Yield Rate [Net of Tax] of 11.7270% at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 coupled with the removal of the Two-Tier Interest Structure of the overnight Standing Deposit Facility on the same day, resulted in the rise in Treasury Bond Yield Rates and a corresponding rise in Interest Rate, for a period of time. However, following the decision taken by the Monetary Board, on 11<sup>th</sup> April 2015, to reduce the Interest Rates applied on the overnight Standing Deposit Facility and the overnight Standing Lending Facility, Interest Rates and Yield Rates reduced to an extent;

[5] As a result of the suspension and stoppage of the Direct Placements from 27<sup>th</sup> February 2015 onwards, the CBSL had no option, but to resort to Auctions whenever it needed to issue Treasury Bonds, and raise Public Debt.

This resulted in the CBSL being solely dependent on the Yield Rates determined by the Market when the CBSL raised funds by way of Treasury Bonds.

[6] Thus, Mr. Mahendran's act of suddenly directing the total suspension or stoppage of Direct Placements on 27<sup>th</sup> February 2015, has caused grave prejudice to the Government and the CBSL ability to raise Public Debt at the "*lowest possible cost*" as the PDD is required to do in terms of the Operational Manual of the PDD.

In this connection, although on more than one occasion, after 27<sup>th</sup> February 2015, the Monetary Board discussed whether Direct Placements should be resorted to on a limited basis, the CBSL did not reintroduce the acceptance of Direct Placements during the entire period Mr. Mahendran's tenure as the Governor. Instead, the CBSL was able to raise the required funds by issuing Treasury Bonds at Auctions and by means of issuing other Government

Securities, albeit at the Rates that were determined by those processes.

We also note that, even though, after Dr. Indrajith Coomaraswamy assumed office as the Governor and the Monetary Board considered the re-introduction of a type of Direct Placements in July 2016, the CBSL considered it possible and advisable to introduce a new system of issuing Treasury Bonds, [which uses the Auction method as the first “phase” of issuing Treasury Bonds and includes accepting a type of “Direct Placements” as a possible later “phase” in specified circumstances], only more than one year later - *ie*: in July 2017.

This fact highlights the complexity of the issues involved and the numerous factors and considerations which must be taken into account when evaluating the relative merits and demerits of Auctions *vis-à-vis* Direct Placements including the comparable costs of raising Public Debt under the two methods of raising Public Debt.

In these circumstances, we are of the view that, although the aforesaid prejudice caused to Government and the CBSL by Mr. Mahendran’s act of suddenly directing the total suspension or stoppage of Direct Placements on 27<sup>th</sup> February 2015, is bound to be very substantial, we do not consider that a monetary loss can be reliably computed due to the many variables and due to the numerous intervening circumstances, which have occurred since 27<sup>th</sup> February 2015.

[7] Here again, Deputy Governors Silva and Weerasinghe were negligent and failed to fulfill their responsibilities as Deputy Governors by remaining silent when they heard the direction issued by Mr. Mahendran to suspend or stop Direct Placements. Deputy Governors Silva and Weerasinghe were duty bound to advise Mr. Mahendran that, it was not advisable to suddenly stop practice of accepting Direct Placement. If their advice was disregarded by Mr. Mahendran and he, nevertheless, insisted on issuing that direction, Deputy Governors Silva and Weerasinghe should have recorded their opposition.

(c) ***Whether any contractual obligations relating to the matter referred to in the said Schedule, have been entered into or carried out, fraudulently, recklessly, negligently or irresponsibly, resulting in***

**damage or detriment to the Government or any statutory body including the CBSL.**

[1] When reporting on Issue (b) above, we have held that, **at the Treasury Bond Auction held on 27<sup>th</sup> February 2015:**

- (I) Mr. Mahendran acted wrongfully, improperly, *mala fide*, fraudulently and in gross breach of his duties as Governor of the CBSL when: (i) he instructed that, Bids to the value of Rs.10.058 billion be accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015, for the improper and wrongful collateral purpose of enabling Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds at that Auction at low Bid Prices and high Yield Rates; and (ii) when Mr. Mahendran provided “inside information” [or “price sensitive information”] to Perpetual Treasuries Ltd that, Bids to a very high value would be accepted at that Treasury Bond Auction even though only a sum of Rs. 1 billion had been offered at the Auction.
- (II) Mr. Mahendran committed the aforesaid wrongful, improper, *mala fide* and fraudulently acts which were in gross breach of his duties as Governor of the CBSL, with the knowledge of and acting in collusion with Perpetual Treasuries Ltd.
- (III) There was no necessity for the CBSL to accept Bids to the value of Rs. 10.058 billion at the Treasury Bonds Auction held on 27<sup>th</sup> February 2015, especially since accepting Bids to the value of Rs. 10.058 billion resulted in accepting Bids at high Yield Rates and
- (IV) The CBSL accepted Bids to the value of Rs.10.058 billion at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and issued 30 Year Treasury Bonds to the Face Value of Rs. 10.058 billion at this Auction, only due to and as a direct result of Mr. Mahendran’s aforesaid instruction;

[2] In Section 19.2.15, we have determined that, the Government suffered an avoidable loss of Rs. 688,762,100/- as a direct result of Mr. Mahendran's intervention in the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and the instructions he gave to both the PDD and the Tender Board that Bids to be value of Rs. 10.058 billion must be accepted at the Auction;

(d) ***Whether there has been non-compliance with, or disregard of, the proper procedure applicable to the calling of tenders or the entering into of agreements or contracts relating to the matter referred to in the said Schedule, on behalf of the Government.***

This issue has been answered in our Report on Issues (a),(b) and (c) above.

(e) ***Whether such non-compliance with, or disregard of proper procedures in respect of the matter referred to in the said Schedule, has resulted in the improper or irregular or discriminatory award of any such tender for the sale of Treasury Bonds referred to in the said Schedule.***

[1] When reporting on Issue (b) above, we have held that, **at the Treasury Bond Auction held on 27<sup>th</sup> February 2015,** Perpetual Treasuries Ltd obtained Treasury Bonds to an aggregate value of Rs. 5 billion at low Bid Prices and high Yield Rates, at the Treasury Bond Auction held on 27<sup>th</sup> February 2015, as a direct result of Mr. Mahendran acting wrongfully, improperly, *mala fide*, fraudulently and in gross breach of his duties as Governor of the CBSL when he instructed that, Bids to the value of Rs.10.058 billion be accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015;

[2] When reporting on Issue (b) above, we have held that, at the **Auctions held on 29<sup>th</sup> March 2016,** Perpetual Treasuries Ltd used "inside information" [or "price sensitive information"] to help obtain a high value of Treasury Bonds bearing ISIN LKB01025C157, ISIN LKB01226F014 and ISIN LKB01530E152, at high Yield Rates.

- (f) **Whether proper procedures and adequate safeguards have been adopted to ensure that the matter referred to in the said Schedule resulted in obtaining the optimum price or benefit for the Government.**

This issue has been answered in at the commencement of this Chapter and in our Report on Issues (a),(b) and (c) above.

- (g) **The person or persons responsible for any act, omission or conduct, which has resulted in such damage or detriment to the Government or any statutory body including the CBSL, in respect of the matter referred to in the said Schedule.**

[1] With regard to **the Treasury Bond Auction held on 27<sup>th</sup> February 2015**, as set out in Section 19.2.15 of Chapter 19, we have determined that, the Government of Sri Lanka suffered an avoidable loss of Rs. 688,762,100/- as a direct result of Mr. Mahendran's intervention in the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and the instructions he gave to both the PDD and the Tender Board that Bids to be value of Rs. 10.058 billion must be accepted at the Auction.

We have also determined that, Mr. Mahendran is liable and responsible for this loss.

Further, we have determined that, since Mr. Mahendran directed that Rs. 10.058 billion be accepted for the improper, wrongful and *mala fide* collateral purpose of enabling Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds at that Auction, at low Bid Prices and high Yield Rates and Mr. Mahendran provided "inside information" ["price sensitive information"] to Perpetual Treasuries Ltd, which Perpetual Treasuries Ltd used to its benefit at the Treasury Bonds Auction held on 27<sup>th</sup> February 2015, Perpetual Treasuries Ltd is also liable and responsible for this loss Rs. 688,762,100/-.

[2] Accordingly, we hold that, the person or persons directly responsible for the damage or detriment caused to the Government by way of the aforesaid loss of Rs. 688,762,100/- as a result of the Transactions which took place at the Treasury Bond Auction held on 27<sup>th</sup> February 2017, are:

1. Mr. Arjuna Mahendran.
2. Perpetual Treasuries Ltd.

[3] We also hold that the following persons are responsible for the aforesaid damage or detriment caused to the Government:

1. Mr. Arjuna Aloysius.
2. Mr. Kasun Palisena.

In this connection, we wish to state that, as set out in Chapter 15, the evidence before us establishes that, Mr. Geoffrey Aloysius and Mr. Arjun Aloysius are the sole owners of the ultimate Holding Company of Perpetual Treasuries Ltd and have been, jointly, the sole beneficial owners of Perpetual Treasuries Ltd during the entire period of our Mandate and had the ultimate control of Perpetual Treasuries Ltd during the period of our Mandate.

Further, as set out in Chapter 15, Mr. Arjun Aloysius and Mr. Kasun Palisena were in control of the day-to-day operations and transactions of Perpetual Treasuries Ltd, during the period of our Mandate and can be, properly, considered to be the persons who have primary responsibility for the actions of Perpetual Treasuries Ltd, during that period.

Therefore, we consider it reasonable, proper and lawful to hold that, as the two persons in control of the day to day operations and transactions of Perpetual Treasuries Ltd, during the period of our Mandate and the persons who have primary responsibility for the actions of Perpetual Treasuries Ltd, during that period, Mr. Arjun Aloysius and Mr. Kasun Palisena are responsible for the aforesaid damage or detriment caused to the Government;

[5] Further, as also set out in Chapter 15, we are of the view that, Mr. Geoffrey Aloysius has a measure of responsibility for the actions carried out by Perpetual Treasuries Ltd, since he functioned as the Chairman of the Board of Directors of Perpetual Treasuries Ltd during the period of our Mandate and since he was the one of the two beneficial owners of Perpetual Treasuries Ltd and the beneficial recipient of the Dividends paid by Perpetual Treasuries Ltd.

In this connection, we note that, the Guidelines to the Code of Conduct for Primary Dealers, which was referred to earlier, state that. *“The board of directors and management are fully responsible for the firm’s operations, including the development, implementation and on-going effectiveness of the firm’s compliance, risk management and internal controls systems and for the adherence by the directors and the employees to the standards sets.”*

However, we do not make a determination adverse to Mr. Geoffrey Aloysius here because we have not heard his evidence which is relevant to this Issue;

- [6] With regard to **the Treasury Bond Auctions held on 29<sup>th</sup> March 2016**, as set out in Section 19.5.11 of Chapter 19, Perpetual Treasuries Ltd has benefitted by receiving and using the “inside information” [“price sensitive information”] at the Treasury Bond Auction on 29<sup>th</sup> March 2016 and we are of the view that, the extent to which Perpetual Treasuries Ltd gained and benefitted from the aforesaid “inside information” [or “price sensitive information”] should be estimated and be recovered from Perpetual Treasuries Ltd and its beneficial Owners.

- (h) Whether any inquiry or probe into the matter referred to in the said Schedule had been obstructed or prevented in any manner, resulting in damage or detriment to the Government or any statutory body including the CBSL, and if so, the person or persons responsible for such obstruction.***

Upon a consideration of the evidence placed before us and a survey of the sequence of events that transpired during the period of our Mandate, we set out a brief report on the aforesaid Issue, with regard to **the Treasury Bond Auction held on 27<sup>th</sup> February 2015**:

- [1] We note that, in the aftermath of the Treasury Bond Auction held on 27<sup>th</sup> February 2015, there was considerable concern and controversy in the public domain regarding this Auction and the fact that, Perpetual Treasuries Ltd had obtained Treasury Bonds to the value of Rs. 5 billion at this Auction and Mr. Mahendran’s son-in-law was closely associated with Perpetual Treasuries Ltd;



- [2] We are of the view that, in the face of this situation, Mr. Mahendran had a duty to promptly ensure that, an independent and competent Inquiry was carried out into this Auction and a comprehensive Report of that Inquiry was submitted to the Monetary Board and, for that matter, to the Government;
- [3] In our view, Mr. Mahendran's failure to do so was in gross breach of his duties as the Governor of the CBSL, was grossly negligent and raises the inference that he did not wish this Auction to be inquired into;
- [4] We find that, despite the considerable concern and controversy in the public domain regarding this Auction, the other members of the Monetary Board at the time – namely, Dr. R.H.S. Samaratinga and Ms. Mano Ramanathan - have not suggested that, an Inquiry be held with regard to with regard to the Treasury Bond Auction held on 27<sup>th</sup> February 2015. We are of the view that, they were negligent, when they omitted to do so;
- [5] As stated in Section 19.2.8 of Chapter 19, we have held that, Mr. Mahendran and Deputy Governor Samarasiri have deliberately and *mala fide* misled the Hon. Prime Minister and suppressed material facts and misrepresented the factual position when, sometime in early March 2015, Mr. Mahendran and Deputy Governor Samarasiri reported the facts and events relating to the Treasury Bond Auction held on 27<sup>th</sup> February 2015, to the Hon. Prime Minister, prior to his making a Statement in Parliament on 17<sup>th</sup> March 2015;
- [6] While we do not, for even a moment, presume to make any pronouncement on events that transpired in Parliament, we consider that, Hon. Prime Minister would have been better advised, if he had independently verified what had happened at the CBSL on 27<sup>th</sup> February 2015, before making any statement, placing reliance on what was held out to him by Mr. Mahendran and Deputy Governor Samarasiri;
- [7] We are of the view that, the three person "Pitipana Committee", [comprising of three senior and reputed Attorneys-at-Law] which was appointed by the Hon. Prime Minister to inquire into and report on this Auction, did not possess technical knowledge or practical

knowledge in the considerably complex arena of Government Securities and Public Debt

Although, we see that, the Hon. Prime Minister has sought to supplement that lack of expertise by ensuring that, the members of the “Pitipana Committee” had the assistance of Dr. W.A. Wijewardena [a former Deputy Governor of the CBSL] with regard to the technical aspects of the matter being inquired into, we consider that, a more effective Inquiry could have been done if the “Pitipana Committee” also had members who had knowledge and experience in the technical and practical aspects of the matter being inquired into;

- [8] We note that, the Report of the “Pitipana Committee” did not determine that, there was any impropriety in the conduct of the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and that, consequently, Mr. Mahendran [who had been on leave pending the completion of the Inquiry of the “Pitipana Committee” and the submission of its Report] resumed duties as Governor of the CBSL when there was no finding of impropriety.

We consider that, the position may have been different if the Committee or other body which carried out this Inquiry had the benefit of members who had knowledge and experience in the technical and practical aspects of the matter being inquired into;

- [9] In any event, soon thereafter, Parliament has resolved to inquire into the Treasury Bond Auction held on 27<sup>th</sup> February 2015 through the COPE of the Seventh Parliament and, later, the COPE of the Eighth Parliament.

That process of Inquiry by Parliament was completed only in October 2016.

In the meantime, since no finding of impropriety or bad faith had been made against him, Mr. Mahendran continued to serve as Governor of the CBSL until his term ended on 30<sup>th</sup> June 2016 and he was not re-appointed.

While we are fully cognizant that, Parliament has supreme authority and control over Public Finance and matters related thereto, we are of the view that, Inquiries into highly technical and

complex matters such as the issue of Government Securities and the raising of Public Debt, are more effectively and completely carried out by an Investigative Committee or an Investigative Tribunal which has some legal training and knowledge of the Law and, importantly, is equipped with knowledge and experience in the technical and practical aspects of the matter being inquired into or has the ability to effectively draw on the resources of persons who have such knowledge and experience;

With regard to **the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016:**

- [1] We have held that, at the time the PDD submitted, to the Monetary Board, the PDD's Report on the Treasury Bond Auctions held on 24<sup>th</sup> March 2016, 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016, it is very likely that, Mr. Sarathchandra, the Superintendent of Public Debt and the other senior officers of the PDD had been informed, by Participants in the Market, of these meetings and the instructions given to the State Banks at the meetings held at the Ministry of Finance on 28<sup>th</sup> March 2016 and 30<sup>th</sup> March 2016;
- [2] We have held that, in this background, it is likely that, Mr. Sarathchandra and senior officers of the PDD who prepared the Board Paper, have omitted referring to these events in the Board Paper which the PDD submitted to the Monetary Board;
- [3] We have held that, this is a cause for grave concern and that the CBSL should investigate this incident and ascertain whether material facts have been suppressed from the Monetary Board and, if considered necessary, take appropriate disciplinary action against the officers concerned.

(i) ***The procedures which should be adopted in the future to ensure that matters such as those referred to in the said Schedule are carried out with transparency and with proper accountability with a view to securing the optimum price or benefit for the Government.***

- [1] As stated in Chapter 31, the CBSL has recently introduced a new Three-Phase System for the issue of Treasury Bonds.

This System is still relatively new and the CBSL will, no doubt, continue to review the efficiency, transparency and security of this new System, as it is being used and fine tune this System, if necessary;

[2] In Chapter 33, we have made several recommendations which are relevant to Issue (i).

**(j) *Whether there has been any misuse or abuse of power, influence, interference, fraud, malpractices, nepotism or any act or omission connected with corrupt activity in relation to the matter referred to the said Schedule.***

This issue has been answered in our Report on Issues (a),(b) and (c) above.

**(ii) The decisions with regard to the Rate of Interest payable on Treasury Bonds issued during this period or the method by which this Rate of Interest is determined**

Our report with regard to Issues (a) to ((j), is set out below:

[1] As stated in Chapter 7, in terms of Section 4 (1) of the Registered Stock and Securities Ordinance, the Minister of Finance is required to make an Order specifying, *inter alia*, the Rate of Interest payable on a Treasury Bond.

That Rate of Interest is known as the “Coupon Rate” of a Treasury Bond;

[2] As stated in Chapter 5, the evidence establishes that, the “Coupon Rate” of a Treasury Bond to be issued - *ie*: the fixed Rate of Interest payable by the Government on the face value of the Treasury Bond - is determined by the senior Officers of the PDD together with the Domestic Debt Management Committee. The Assistant Governor and Deputy Governor supervising the PDD are kept advised of the “Coupon Rate” decided by the PDD and could intervene and require an amendment, if they consider it necessary to do so. The Monetary Board is advised of the

“Coupon Rate” later when the Monetary Board is advised of the issue of the Treasury Bond;

- [3] As stated in Chapter 5, the evidence establishes that, the PDD decides on the “Coupon Rate” based on the CBSL’s prevailing Debt Management Policies, the Tenor of the Treasury Bond, and prevailing Market Conditions;
- [4] The evidence before us does not suggest that, there was any error, irregularity or impropriety in the decisions taken with regard to the “Coupon Rates” decided in relation to the Treasury Bonds issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016;
- [5] The evidence before us establishes that, the CBSL has not specified Guidelines for the manner in which the PDD should determine the “Coupon Rate” of Treasury Bonds which are to be issued or set up a Procedure which governs how the “Coupon Rate” is to be decided and approved by senior Management.

We have recommended that such Guidelines be formulated.

**(iii) The decisions with regard to the dates on which Interest is payable on Treasury Bonds issued during this period**

Our report with regard to Issues (a) to (j), is set out below:

- [1] In terms of Section 4 (1) of the Registered Stock and Securities Ordinance, the Minister of Finance is required to make an Order specifying, *inter alia*, the Dates on which Interest will be paid on a Treasury Bond;
- [2] Interest is paid half yearly [six monthly] on Treasury Bonds;
- [3] There is no element of discretion in this regard;

(iv) **The decisions with regard to Rates at which, and the periods at the end of which, appropriation out of the Consolidated Fund and Assets of Sri Lanka shall be made as a Contribution to a Sinking Fund established for the purpose of redeeming Treasury Bonds issued during this period and the date from which such Contributions shall commence**

Our report with regard to Issues (a) to (j), is set out below:

- [1] As stated in Chapter 7, Sections 3 and 22 of the Registered Stocks and Securities Ordinance stipulates that, the Principal Sums and Interest payable upon Treasury Bonds are charged to and are paid from the Consolidated Fund and Assets of Sri Lanka and that, the Proceeds of the issue of Treasury Bonds shall be paid into the Treasury;
- [2] Sections 27, 28, 29, 30, 30A, 31, 32, 33 and 33 A of the Registered Stock and Securities Ordinance provide for the establishment and maintenance of a “Sinking Fund” to fund the redemption in respect of Treasury Bonds;
- [3] However, as stated in Chapter 7, the evidence before us makes it apparent that, a “Sinking Fund” has not been operated for many years;
- [4] As stated in Chapter 7, we have assumed that, in view of the evidence before us, at some point in time in the past, a Declaration would have been made by a Minister of Finance, under Section 33A of the Registered Stock and Securities Ordinance, to the effect that, no contributions are to be made to a “Sinking Fund” out the Consolidated Fund and Assets of Sri Lanka to provide for the redemption of Treasury Bonds and that, instead, provision is to be made in the Appropriation Act, for the redemption of Treasury Bonds.

(v) **The decisions with regard to the dates of redemption of Treasury Bonds issued during this period.**

Our report with regard to Issues (a) to (j), is set out below:

- [1] As stated in Chapter 7, in terms of Section 4 (1) of the Registered Stock and Securities Ordinance, the Minister of Finance is required to make an Order specifying, *inter alia*, the Date of Redemption of a Treasury Bond;

- [2] The Date of Redemption is the date on which a Treasury Bond matures and the Government must pay the face value of that Treasury Bond to the Holder;
- [3] The period of time from the date of issue of the Treasury Bond to the date it matures and the Government must pay the face value of that Treasury Bond to the Holder, is referred to as the Tenor of the Treasury Bond;
- [4] As stated in Chapter 5, the evidence establishes that, the PDD decides the Tenor of the Treasury Bond to be issued. The Assistant Governor and Deputy Governor supervising the PDD are kept advised of the Tenors of Treasury Bonds as decided by the PDD and could intervene and require an amendment, if they considered it necessary to do so. The Monetary Board is, usually, advised of the Tenors of the Treasury Bonds when the Monetary Board is later advised of the issue of the Treasury Bonds;
- [5] The evidence before us does not suggest that, there was any error, irregularity or impropriety in the decisions taken with regard to the Tenors of the Treasury Bonds issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016.

**The “disposal” of the Treasury Bonds issued during the period from 01<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016, to “Primary Dealers, Direct Participants or Dealer Direct Participants.” [ie: in the Secondary Market]**

Our report with regard to Issues (a) to (j), is set out below:

- [1] The evidence placed before us with regard to the Transactions on Treasury Bonds in the Secondary Market, indicated irregularities only with regard to the Transactions entered into by or on behalf of Perpetual Treasuries Ltd;
- [2] Perpetual Treasuries Ltd’s Transactions upon Treasury Bonds in the Secondary Market during the period relevant to our Mandate were concentrated on Transactions upon Treasury Bonds bearing the following seven ISIN LKB03045C013, LKB01528I017, LKB02541A016, LKB01530E152, LKB01226F014, LKB01025C157 and LKB02035C155;



- [3] The Total Net Cash Inflows received [monetary gains made] by Perpetual Treasuries Ltd from all Sales of Treasury Bonds bearing the aforesaid ISINs [which were issued during the period from 01<sup>st</sup> February 2016 to 31<sup>st</sup> March 2016], during the period relevant to our Mandate, aggregate to Rs.11,145,221,479/99/-;
- [4] The Total Net Cash Inflows received [monetary gains made] by Perpetual Treasuries Ltd from the Sales of Treasury Bonds bearing the aforesaid ISINs [which were issued during the period from 01<sup>st</sup> February 2016 to 31<sup>st</sup> March 2016], to the EPF and other Statutory Bodies and Government Institutions, during the period relevant to our Mandate, aggregate to Rs. 8,529,964,495/61/-;
- [5] Only Rs.2.615 billion of the aforesaid Net Cash Inflow received by Perpetual Treasuries Ltd, accrued from the Sale of Treasury Bonds private entities. The entirety of the balance sum of Rs. 8.529 billion accrued to Perpetual Treasuries Ltd from the sale of Treasury Bonds to the EPF and other Statutory Bodies and Government Institutions;
- [6] The evidence establishes that, Perpetual Treasuries Ltd has made the major part of its Profits by using “inside information” [“price sensitive information”] and “market manipulation”;
- [7] It is reasonable to take the view that, the estimated Total Net Cash Inflows [monetary gains] aggregating to Rs. 8,529,964,495/61/- received or made by Perpetual Treasuries Ltd from the Sales of Treasury Bonds, to the EPF and other Statutory Bodies and Government Institutions, during the period relevant to our Mandate, has been made by using “inside information” [“price sensitive information”] and by “market manipulation”;
- [8] We are of the view that, in the aforesaid circumstances, Perpetual Treasuries Ltd has knowingly violated and acted in breach of the provisions of the Code of Conduct for Primary Dealers, which has been issued by the CBSL under and in terms of the Regulations issued under the Registered Stock and Securities Ordinance No. 7 of 1937;
- [9] We are of the view that, the quantum of the sum to which Perpetual Treasuries Ltd gained from “inside information” [“price sensitive information”] and “market manipulation”, can be reasonably estimated at Rs. 8,529,964,495/61/-;

[10] We are of the view that, in the aforesaid circumstances, the Hon. Attorney General or other appropriate authorities should consider whether Perpetual Treasuries Ltd is liable for prosecution for an offence in terms of the aforesaid S: 56A(1) of the Registered Stock and Securities Ordinance and, in the event of a conviction being entered by a learned Magistrate after Summary Trial, Perpetual Treasuries Ltd could be held liable to a fine equivalent to twice the value of that sum or in such other sum as the Court may determine.

We are also of the view that, the evidence placed before us establishes that, Mr. Arjun Aloysius and Mr. Kasun Palisena were both parties to and directly responsible for the aforesaid violation and breach of the Code of Conduct for Primary Dealers, by Perpetual Treasuries Ltd and, therefore, fall within the scope of the description *“every person who at the time of the commission of the offence was a director or an officer of the body corporate shall be deemed to be guilty of that offence.”* in Section 56B of the Registered Stock and Securities Ordinance No. 7 of 1937.

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## CHAPTER 33

### **RECOMMENDATIONS**

The Presidential Warrant dated 27<sup>th</sup> January 2017 issued to us, requires us to make recommendations with regard to the matters we have investigated and inquired into and reported on.

On the basis of the evidence placed before us and our determinations and conclusions based thereon and our observations, which are set out in our Report, we recommend:

- 1] *The Monetary Law Act No. 58 of 1949 is, as stated in its Preamble, “AN ACT TO ESTABLISH THE MONETARY SYSTEM OF SRI LANKA AND THE CENTRAL BANK, TO ADMINISTER AND REGULATE THE SYSTEM AND TO CONFER AND IMPOSE UPON THE MONETARY BOARD OF THE CENTRAL BANK POWERS, FUNCTIONS AND RESPONSIBILITIES NECESSARY FOR THE PURPOSES OF SUCH ADMINISTRATION AND REGULATION, AND TO PROVIDE FOR CONNECTED MATTERS.”*

The Monetary Law Act was drafted by John Exter and his colleagues and was enacted soon after Ceylon [as it then was] obtained its independence.

While the provisions of the original Act are far sighted and prudent, much has changed in Sri Lanka and the world during the more than six decades that have passed.

There have been 22 piecemeal Amendments to the Monetary Law Act since 1949, but these Amendments have only addressed specific issues.

To the best of our knowledge, up to now, there has been no consideration, which is known in the public domain, of whether the overall structure of the Monetary Law Act suits the present day needs of Sri Lanka, its economy and the needs and aspirations of our people.

We recommend that, the CBSL and the Government carefully considers whether the Monetary Law Act, as it now stands, adequately services Sri Lanka's efforts to develop our country and its economy for the benefit of our people or whether the Monetary Law Act should be replaced with appropriate legislation which will better suits the present day needs and aspirations of Sri Lanka.

We stress that, we only recommend a careful consideration of this issue, so that the CBSL and Government could, after careful study of all relevant factors and analysis of all material implications and consequences, reach a prudent and far sighted decision with regard to whether the Monetary Law Act needs to be replaced by appropriate legislation.

Needless to say, if, after the aforesaid careful process is carried out, a considered decision is taken to replace the Monetary Law Act, we would assume that, the drafting of such legislation would be done in consultation with the CBSL and other stakeholders and after obtaining the required expertise, especially with regard to comparable exercises in comparable countries;

- 2] The Monetary Law Act does not set out the criteria which should be applied when selecting and appointing a Governor of the CBSL. The only requirement specified in the Monetary Law Act is that, a Governor shall devote his full professional time to the business of the CBSL.

It is hardly necessary to emphasise that, the Governor of the CBSL is a key official who holds enormous responsibilities and that, he must be a person of the highest integrity and ability and also have the required knowledge and experience to effectively perform his duties in the best interests of the Nation and its people.

It is appropriate to refer to the observations made by John Exter, who is the architect of the Monetary Law Act and the Founder Governor of the CBSL, in the Exter Report, which was referred to earlier:

*“Although the ultimate authority rests in the Monetary Board, the draft law nevertheless recognizes need for a strong chief executive for the Central Bank. Accordingly, the Governor is made the Chairman of the Monetary Board, and is given control of the agenda for its meetings. He is to be responsible for the execution and administration of policies and measures adopted by the Monetary Board, for the direction, supervision and control of the operations of the Central Bank, and for its internal management and administration. He is to be chief representative of the Bank in its relations with outside persons, including the Government and its agencies, foreign governments and their agencies, and international financial and other institutions. He will be required to devote his full professional time to the business of the Central Bank. Since the other two members of the Monetary Board will be part-time members and because the problems facing central bankers are frequently complex and technical, it is to be expected that the full-time Governor will ordinarily be the most influential member of the Board and will tend to dominate it. Accordingly, the Governor should be a man of recognized and outstanding competence in and*

*understanding of the economic and financial problems of Ceylon, and of unquestioned integrity and responsibility. In order to attract such a man it is recommended that his salary be set at the highest possible level not inconsistent with remuneration in top-ranking posts elsewhere in the Government and its agencies. **General functions and duties of Governor:** It is important that the Governor should have had actual financial experience. In many countries this point has actually been incorporated in legislation, as the following quotation from De Kock's book on Central Banking shows: "... in the case of some central banks it has been laid down by statute that the Governor and Deputy-Governor shall be 'men of proven financial experience', as in Canada, or 'persons possessed of actual banking experience', as in New Zealand, or 'persons of recognised banking and financial experience', as in Argentina, or that the Governor shall be a 'person of tested banking experience', as in the Union of South Africa and Mexico."*

As we observed earlier, John Exter's perceptive and far sighted description of the nature of the office of Governor of the Central Bank and the character and expertise required of a Governor, remain very true and relevant more than six decades later.

At present, the Monetary Law Act does not stipulate any relevant criteria with regard to the selection of the person who is to be appointed the Governor and does not set out a process by which the appointment should be made. In effect, under the Law as it stands now, the appointment of the Governor of the CBSL is at the discretion of the Minister of Finance and the President.

We recommend that, consideration is given to developing relevant criteria and a specified Procedure to govern the selection of the person who is to be appointed the Governor;

- 3] We are also of the view that, the selection of the persons to be appointed members of the Monetary Board, must be done with similar care. In this connection, we note that, following the 19<sup>th</sup> Amendment to the Constitution, the salutary measure of submitting such appointments for the consideration of the Constitutional Council, has been introduced;
- 4] In view of the concerns with regard to conflict of interest and other matters which have been referred to earlier, we recommend that, the CBSL and the relevant Ministry consider whether it is appropriate to introduce a 'Code of Conduct' for members of the Monetary Board;

- 5] As stated earlier, we consider that, the provisions of the Registered Stock and Securities Ordinance, which was enacted in 1937, are outmoded and are, sometimes impractical. The same observation is applicable to the provisions of the Local Treasury Bills Ordinance No. 8 of 1923.

Accordingly, we recommended that, the provisions of the Registered Stock and Securities Ordinance and Local Treasury Bills Ordinance are examined with a view to the repeal of these enactments and the enactment of appropriate legislation which not only will meet the requirements and realities of raising Public Debt in the present day but also provide for the Government Securities Market of the future;

- 6] We recommend that, the CBSL closely examines the Procedures followed in the Public Debt Department of the CBSL and the decision-making process applied to the raising of Public Debt by the CBSL and determines how these Procedures should be improved and made more secure. Further, measures should be taken to ensure that, the day-to-day operations of the Public Debt Department are reported to the senior Management of the CBSL, so that the senior Management exercises adequate supervision and control over the day-to-day operations of the Public Debt Department.

Following this process, the Operational Manual of the Public Debt Department of the CBSL should be revised and be considered and approved by the Monetary Board.

In fact, we would assume that, with the introduction of the new System for the issue of Treasury Bonds in July 2017, the CBSL would have commenced and, perhaps, completed the aforesaid process.

We also recommend that the CBSL considers formulating Guidelines with regard to the determination of Coupon Rates payable on Treasury Bonds which are to be issued;

- 7] In this connection, we recommend that, the CBSL ensures that, there is strict segregation effected in the course of the day-to-day operations of the several Departments of the Public Debt Department and that measures are taken to impose the control of access from one Department to another.

The CBSL should ensure that, a Voice Recording System is used in the Front Office of the Public Debt Department and that a CCTV System is installed in the Public Debt Department. Further, the use of Mobile Phones within the Public Debt Department, should be prohibited

The CBSL should ensure that, the officers of the Public Debt Department and the Tender Board are required to furnish Assets Declarations and furnish details of the Accounts these officers and the members of their immediate families maintain with Banks, Finance Companies and the Central Depository System.

CBSL should introduce a `Code of Conduct` for officers and staff of the members of the Public Debt Department and the Tender Board.

In fact, we would assume that, the CBSL would have introduced these measures, by now;

- 8] We also recommend that, the CBSL carries out a similar exercise and takes similar measures with regard to the EPF Department of the Central Bank.

Here too, we would assume that, the CBSL would have done so, by now;

- 9] We recommend that, the CBSL considers introducing a procedure which ensures that, Operational Audits of the Public Debt Department [and other Departments] are regularly carried out on a structured basis and puts in place measures to ensures the independence of the officers of CBSL who carry out Internal Audit and Operational Audit functions;

- 10] We recommend that, the CBSL considers strengthening its Legal Department and ensures that the CBSL has competent in-house legal advisors.

We also recommend that, the CBSL examines the adequacy of its programmes to train and develop the professional knowledge and operational competence of its officers and the inculcation of standards of ethics which are expected from officers of the CBSL;

- 11] As set out earlier, there is adequate evidence before us to form the view that, there is a likelihood that some irregularities have taken place in the acceptance of Direct Placements prior to 2015.

Therefore, we recommend that, an appropriate investigation be carried out to ascertain whether there were significant irregularities in the acceptance of Direct Placements by the Public Debt Department during the period 2008 to 2014 and, if so, to identify the officers of the Public Debt Department and the superior officers of the CBSL, the Primary Dealers and any other persons who were responsible for such irregularities. Such an investigation should also seek to compute the losses, if any, which may have been incurred by the Government as a result of any such irregularities. A Forensic Audit may be appropriate;



- 12] As set out earlier in Chapter 12, we recommend that, the CBSL considers whether it is appropriate to introduce a revised Code of Conduct for Primary Dealers which could be updated to provide for the modern-day Market and, especially, to take into account technology which is now used and is available.

As we observed earlier, the preparation of a revised Code of Conduct for Primary Dealers would give the CBSL an opportunity to crystallize into a revised document, the experience gained and lessons learnt over the 14 years that have passed since the Code of Conduct was drafted;

- 13] As stated earlier in Chapter 14, we recommend that, the CBSL investigates the operations of the Primary Dealer arm of Pan Asia Banking Corporation PLC;
- 14] As stated earlier in Chapter 5, although there is evidence before us with regard to several Transactions entered into between Mr. Nimal Perera, former Chairman of PABC, and the EPF, which require scrutiny, these Transactions have not been established to fall within the scope of our Mandate. Therefore, we did not summon Mr. Nimal Perera to appear before us and, accordingly, we cannot arrive at a determination adverse to Mr. Nimal Perera in these Proceedings.

However, we recommend that, the CBSL carries out a specific and detailed investigation into the Treasury Bond Transactions which Mr. Nimal Perera and his Company and other Clients of PABC, had with the EPF;

- 15] As stated earlier in Chapter 13, we have identified several areas of concern with regard to the manner in which the EPF operated and transacted upon Treasury Bonds during the period of our Mandate.

We trust that, the investigation which the Monetary Board and the CBSL is carrying out will carefully examine the Transactions entered into by the EPF and identify whether a loss was caused to the EPF and, if so, identify the persons responsible and, seek to recover such loss from the persons responsible.

We trust that, where appropriate, the Monetary Board and CBSL will consider whether persons who are found to have committed any dishonest acts or who have received inducements in return for entering into Transactions on behalf of the EPF, should be prosecuted.

As observed earlier, the Monetary Board and the officers of the CBSL act in the capacity of trustees of the EPF and that are bound and obliged to carry out a comprehensive examination and take stringent action against any persons who are identified to be wrongdoers.

16] In view of the observations made earlier in Chapter 16, consideration may be given to whether the operations and management of the CBSL prior to 2015 should be examined, particularly with regard to the reasons for the Losses incurred by the CBSL in the years 2013, 2014 and 2015 and the Transactions entered into by the EPF on the Colombo Stock Exchange during the period 2010 onwards. We have previously recommended that, the Direct Placements accepted during this period, should be examined;

17] As set out earlier in Chapter 19, we have determined that, the Government of Sri Lanka suffered an avoidable loss of Rs. 688,762,100/- as a direct result of Mr. Mahendran's intervention in the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and the instructions he gave to both the PDD and the Tender Board that Bids to be value of Rs. 10.058 billion must be accepted at the Auction and we have determined that, Mr. Mahendran is liable and responsible for this loss.

Accordingly, we recommend that, appropriate proceedings are instituted against Mr. Mahendran to recover this loss.

18] As set out earlier in Chapter 19, we have also determined that, Mr. Mahendran directed that Bids to the value of Rs. 10.058 billion be accepted for the improper, wrongful and *mala fide* collateral purpose of enabling Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds at that Auction, at low Bid Prices and high Yield Rates and that, Mr. Mahendran provided "inside information" ["price sensitive information"] to Perpetual Treasuries Ltd, which Perpetual Treasuries Ltd used to its benefit at the Treasury Bonds Auction held on 27<sup>th</sup> February 2015 and that, Mr. Mahendran acted in collusion with Perpetual Treasuries Ltd.

Therefore, we recommend that, appropriate proceedings are also instituted against Perpetual Treasuries Ltd for the recovery of this los Rs. 688,762,100/-. In this connection, we consider that, the provisions of Section 21D (5) of the Registered Stocks and Securities Ordinance are likely to be relevant.

In this connection, we also recommend that, the Hon. Attorney General and other appropriate authorities consider whether, Perpetual Treasuries Ltd has used and gained and benefitted from "inside information" ["price sensitive information"] at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and, if so, whether Perpetual Treasuries Ltd should be prosecuted under the provisions

of section 56A(1) of the Registered Stock and Securities Ordinance and, in the event of a conviction being entered by a learned Magistrate after Summary Trial in such a Prosecution, recovering, from Perpetual Treasuries Ltd, a fine which is twice the value of the aforesaid sum of Rs. 688,762,100/- or such other amount as the Court may be pleased to determine.

Further, we recommend that, the Hon. Attorney General and other appropriate authorities consider whether Mr. Arjun Aloysius and Mr. Kasun Palisena are parties to and directly responsible for the commission of an offence under section 56A(1) of the Registered Stock and Securities Ordinance and, if so, proceed against these two persons too, in terms of Section 56B of the Registered Stock and Securities Ordinance;

- 19] We further recommend that, in view of the determinations referred to above, the Commission to Investigate Allegations of Bribery or Corruption and the other appropriate authorities consider whether the aforesaid acts of Mr. Mahendran amount to acts of "*Corruption*" as defined in Section 70 of the Bribery Act and, if so, prosecute Mr. Mahendran under the Bribery Act and other applicable Law.
- 20] As set out in Chapter 19, we have determined that, Perpetual Treasuries Ltd obtained and used "inside information" ["price sensitive information"] at the Treasury Bond Auction on 29<sup>th</sup> March 2016 and gained and benefitted thereby.

We have also stated that, given the complexity of the task and the expertise needed, a Forensic Audit or similar process should be carried out to accurately estimate the quantum of the sum to which Perpetual Treasuries Ltd gained and benefited from the "inside information" ["price sensitive information"] at the Treasury Bond Auction on 29<sup>th</sup> March 2016.

Here too, we recommend that, after the quantum of the sum to which Perpetual Treasuries Ltd gained and benefited from the "inside information" ["price sensitive information"] at the Treasury Bond Auction on 29<sup>th</sup> March 2016 is estimated by means of a Forensic Audit or other similar process, the Hon. Attorney General or other appropriate authorities consider whether, Perpetual Treasuries Ltd should be prosecuted under the provisions of section 56A(1) of the Registered Stock and Securities Ordinance and, in the event of a conviction being entered by a learned Magistrate after Summary Trial in such a Prosecution, recovering, from Perpetual Treasuries Ltd, a fine which is twice the value of the extent of the gain and benefit gained by Perpetual Treasuries Ltd or such other amount as the Court may be pleased to determine.

Further, we recommend that, the Hon. Attorney General and other appropriate authorities consider whether Mr. Arjun Aloysius and Mr. Kasun Palisena are parties to and directly responsible for the commission of an offence under section 56A(1) of the Registered Stock and Securities Ordinance and, if so, proceed against these two persons too, in terms of Section 56B of the Registered Stock and Securities Ordinance;

- 21] As set out in Chapter 23, we are of the view that, Perpetual Treasuries Ltd has made the major part of its Profits by using “inside information” [“price sensitive information”] and by “market manipulation” in the Secondary Market and, thereby, knowingly violated and acted in breach of the provisions of the Code of Conduct for Primary Dealers, which has been issued by the CBSL under and in terms of the Regulations issued under the Registered Stock and Securities Ordinance No. 7 of 1937.

Further, as set out in Chapter 23, it is reasonable to take the view that, the Total Net Cash Inflows received [monetary gains made] by Perpetual Treasuries Ltd from the Sales of Treasury Bonds during the period relevant to our Mandate, to the EPF and other Statutory Bodies and Government Institutions, and aggregating to Rs. 8,529,964,495/61/- have been made, by using “inside information” [“price sensitive information”] and by “market manipulation”.

In these circumstances, we recommend that, the Hon. Attorney General and other appropriate authorities should consider whether Perpetual Treasuries Ltd is liable for prosecution for an offence in terms of the aforesaid Section 56A(1) of the Registered Stock and Securities Ordinance and, in the event of a conviction being entered by a learned Magistrate after Summary Trial, Perpetual Treasuries Ltd could be held liable to a fine equivalent to twice the value of the aforesaid sum or in such other sum as the Court may determine.

Here too, we recommend that, the Hon. Attorney General and other appropriate authorities consider whether Mr. Arjun Aloysius and Mr. Kasun Palisena are parties to and directly responsible for the commission of an offence under section 56A(1) of the Registered Stock and Securities Ordinance and, if so, proceed against these two persons too, in terms of Section 56B of the Registered Stock and Securities Ordinance;

- 22] We recommend that, the Hon. Attorney General and other appropriate authorities examine whether prosecutions should be instituted, under the Penal Code or other relevant provision of the Law, against Mr. Mahendran, Mr. Arjun Aloysius, Mr. Palisena and relevant officers of the CBSL and the EPF on the

basis of the facts and circumstances established by the evidence placed before this Commission of Inquiry.

We also recommend that, the Commission to Investigate Allegations of Bribery or Corruption examines the evidence placed before this Commission of Inquiry and ascertains whether there are grounds to prosecute Perpetual Treasuries Ltd, Mr. Arjuna Aloysius, Mr. Kasun Palisena and relevant officers of the CBSL and the EPF, for offences under the Bribery Act and other applicable Law;

Further, we recommend that, the Hon. Attorney General and other appropriate authorities carefully examine the Report marked “**C350**” prepared by the CID [and related documents] which sets out, *inter alia*, details of telephonic contacts Mr. Arjun Aloysius had with Dealers and other persons engaged in the Government Securities Market and investigates the Transactions which such Dealers and other persons had with Perpetual Treasuries Ltd, and ascertain whether such Transactions involved wrongful and/or lawful acts and if so, consider instituting appropriate proceedings against such Dealers and other persons.

We consider that the Monetary Board and the CBSL must carefully examine the Report marked “**C350**” [and related documents] and investigate the Transactions which Dealers and other persons named in that Report [as persons who had frequent telephonic contact with Mr. Arjun Aloysius] had with Perpetual Treasuries Ltd and ascertain whether such Transactions involved wrongful and/or lawful acts and if so, take appropriate Regulatory action and other appropriate actions against such Dealers and other persons;

- 23] As stated earlier in Chapter 22, we recommend that, the Hon. Attorney General or other appropriate authorities consider whether the material contained in the Report “**C350**” [and related documents] establishes that, some of the evidence given by Mr. Mahendran and Mr. Palisena before us, is shown to have been incorrect and, if that is the case, whether there are grounds to prosecute Mr. Mahendran and Mr. Palisena under Section 179 and/or Section 188 of the Penal Code or other relevant provision of the Law, read with Section 9 of the Commissions of Inquiry Act No. 17 of 1948;
- 24] As stated earlier in Chapter 24, we recommend that, the Commission to Investigate Allegations of Bribery or Corruption should consider whether Hon. Ravi Karunanayake, MP, while he was Minister of Finance, derived a substantial benefit from the Lease Payments made by Walt and Row Associates (Pvt) Ltd [which is an Associate Company of Perpetual Treasuries Ltd and which is owned and controlled by the same persons who own and control Perpetual Treasuries Ltd] for the lease of apartment occupied by Hon. Ravi Karunanayake,

MP and his family and, if so, determine whether appropriate action should be taken against Hon. Ravi Karunanayake, MP, under the Bribery Act;

- 25] As stated earlier in Chapter 24, we also recommend that, the Hon. Attorney General and other appropriate authorities consider whether some of the evidence given by Hon. Ravi Karunanayake, MP before us is shown to have been incorrect and, if that is the case, whether Mr. Karunanayake should be prosecuted under Section 179 and/or Section 188 of the Penal Code or other relevant provision of the Law, read with Section 9 of the Commissions of Inquiry Act No. 17 of 1948;
- 26] As stated earlier in Chapter 29, we recommend that, the Hon. Attorney General and other appropriate authorities consider whether Perpetual Treasuries Ltd has, wrongfully and fraudulently, deleted Call Recordings for the purpose of concealing the true nature of the Transactions entered into by Perpetual Treasuries Ltd and attempted to suppress evidence with regard to wrongful acts of Perpetual Treasuries Ltd and, if so, whether prosecutions should be instituted against Perpetual Treasuries Ltd, Mr. Arjun Aloysius and Mr. Kasun Palisena for criminal offences under Chapter X and Chapter XI of the Penal Code, including Sections 175, 189, 193, 198 and 201 of the Penal Code read with Section 9 of the Commissions of Inquiry Act No. 17 of 1948. The appropriate authorities may also consider whether Mr. Nuwan Salgado and Mr. Sachith Devathanthri should be prosecuted in this regard;
- 27] We also recommend that, the Hon. Attorney General and other appropriate authorities consider whether, Mr. Palisena's statements, in the Affidavit affirmed to by him, where he declares that complete Telephone Call Recordings have been submitted to the Commission of Inquiry by Perpetual Treasuries Ltd, were false and, if that is the case, whether Mr. Palisena should be prosecuted under Section 179 and/or Section 188 of the Penal Code or other relevant provision of the Law, read with Section 9 of the Commissions of Inquiry Act No. 17 of 1948;
- 28] We recommend that, pending the consideration of institution of the aforesaid Proceedings, the Assets of Perpetual Treasuries Ltd and its beneficial owners - namely, Mr. Arjun Aloysius and Mr. Geoffrey Aloysius - and the persons who were in day-to-day control of Perpetual Treasuries Ltd - namely Mr. Arjun Aloysius and Mr. Kasun Palisena - including all monies lying to the credit of Perpetual Treasuries Ltd's Accounts with the CBSL and other Banks, the aforesaid Shares in National Development Bank PLC and the Dividends aggregating to Rs. 641.556 million paid by Perpetual Treasuries Ltd to its beneficial owners, should be held or placed "under lien", so that such Assets cannot be disposed of in the meantime.

Thereafter, if decisions are taken to institute such Proceedings, appropriate Orders may be sought from the Courts in which such Proceedings may be instituted;

- 29] We also recommend that, consideration is given to recovering the Costs of this Commission of Inquiry, from Perpetual Treasuries Ltd.
- 30] While we have recommended that, consideration is given to instituting appropriate Proceedings in Court for the recovery of the aforesaid monies from Mr. Mahendran, Perpetual Treasuries Ltd and its beneficial owners - namely, Mr. Arjun Aloysius and Mr. Geoffrey Aloysius and also Mr. Kasun Palisena [in the manner and for the sums referred to earlier], we would also think that, in view of the extreme gravity of the facts and circumstances which formed the subject matter of our Mandate and the very substantial prejudice caused by these facts and circumstances to our economy and our Nation, Parliament may wish to carefully consider whether it is appropriate and necessary to take steps to recover the aforesaid monies, by exercising its legislative powers.

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## CHAPTER 34

### **EXECUTIVE SUMMARY**

A Report of this nature does not lend itself easily to be summarized in a brief but still comprehensive way.

In Chapter 5 of this Report, we have set out a summary of the relevant evidence given by each of the 71 witnesses who testified before us.

In Chapters 6 to 31 of this Report, we have endeavoured to examine the relevant evidence placed before us with regard to the subject matter of each of these Chapters and set out our findings and determinations on these matters.

In Chapter 32 of this Report, we have set out our report on the specific Issues listed in the Mandate issued to us. In Chapter 33 of this Report, we have set out our Recommendations.

In this Summary, we will only seek to list some of our key findings and determinations with regard to the matters referred to in our Mandate.

Since this will result in some repetition, we will seek to limit the contents of this Chapter to only those key findings and determinations.

Readers who wish to know the several findings and determinations we have made and the background in which these findings and determinations were reached, should read Chapter 1 of this Report in which we referred to the guidelines upon which we conducted the investigation and inquiry and prepared this Report and, thereafter, read Chapters 6 to Chapter 31 of this Report. Where considered necessary, the relevant evidence can be examined by referring to Chapter 5.

A reading of this Executive Summary only, will not be an adequate substitute to reading the Report.

#### **Chapter 7 - Treasury Bills, Treasury Bonds and other Government Securities**

In 2008, the Monetary Board has approved the issue of Treasury Bonds by way of Direct Placements only to the EPF and “other Captive Sources” such as the National Savings Bank, the Employees’ Trust Fund, the State Banks and other Government Institutions.

The Monetary Board has not specifically approved accepting Direct Placements from Primary Dealers.

However, from 2008 onwards the Public Debt Department has, over a long period of time, accepted Direct Placements from Primary Dealers.

We note that, this practice of accepting Direct Placements from Primary Dealers has not been questioned by the Monetary Board and has had the tacit approval of the Monetary Board even though the Monetary Board had not given specific approval for this practice.

#### Chapter 11 - The Primary Market in Treasury Bonds - Auctions and Direct Placements - the merits and demerits of the two modes of issues

Based on the evidence, including the Reports prepared by the Auditor General, there is a likelihood that some irregularities have taken place in the acceptance of Direct Placements prior to 2015.

#### Chapter 14 - The Profits made by Perpetual Treasuries Ltd and other facts which single out Perpetual Treasuries Ltd

The phenomenal Profits made by Perpetual Treasuries Ltd within a very short space of time and on an Issued Capital of only Rs. 300 million, are very much higher than the Profits made by other Primary Dealers and led us to consider that, it is necessary, to examine how and why Perpetual Treasuries Ltd was able to make these remarkable Profits.

Further, the evidence placed before us established a series of facts and circumstances which serve to single out Perpetual Treasuries Ltd as a Primary Dealer, which merited our special attention.

#### Chapter 15 - Perpetual Treasuries Ltd

We conclude that, Mr. Geoffrey Aloysius and Mr. Arjun Aloysius have been the sole beneficial owners of Perpetual Treasuries Ltd during the entire period of our Mandate.

Although Mr. Arjun Aloysius had resigned from the post of Director of Perpetual Treasuries Ltd on 16<sup>th</sup> January 2015, it is evident that, Mr. Arjun Aloysius and Mr. Kasun Palisena were in control of the day-to-day operations and transactions of Perpetual Treasuries Ltd, during the period of our Mandate and can be, properly,

considered to be the persons who have primary responsibility for the actions of Perpetual Treasuries Ltd, during that period.

Mr. Geoffrey Aloysius also has a measure of responsibility for the actions carried out by Perpetual Treasuries Ltd.

#### Section 19.2.1 - The Meeting of the Monetary Board held on 23<sup>rd</sup> February 2015

Mr. Mahendran's proposal to issue a 30 Year Treasury Bond and the Monetary Board's decision to issue that Treasury Bond was, *ex facie*, a due exercise of the authority and discretion of the Monetary Board.

However, we would mention here, that, in the light of the subsequent events which took place on 27<sup>th</sup> February 2015 and the role Mr. Mahendran played in the conduct of the Auction held on that day, a question arises as to whether Mr. Mahendran had any personal or ulterior motive when he pressed for the issue of a 30 Year Treasury Bond at the meeting held on 23<sup>rd</sup> February 2015. In this regard, Perpetual Treasuries Ltd was known to specialize in trading in long term Treasury Bonds. Further, it has to be noted that, an Auction at which a large value of 30 Year Treasury Bonds are issued at high Yield Rates, will result in the long end of the Yield Curve for Treasury Bonds being fixed [at least, for a period] at a relatively high level and will, thereby, give "leverage" for a person who holds such Treasury Bonds, to profitably trade upon them if and when Yield Rates decline over time. It also has to be noted that, as Deputy Governor Weerasinghe observed, the Yield Curve for Treasury Bonds should be set properly and prudently since it impacts on Interest Rates in the Market and the Interest Rates applied by Commercial Banks in their Banking Transactions.

At the aforesaid meeting held on 23<sup>rd</sup> February 2015, the Monetary Board decided that, the Two-Tier Structure of Interest Rates of 6.5% *per annum* and 5% *per annum* then applied to the overnight Standing Deposit Facility and the Interest Rate of 8% *per annum* which was then offered on the overnight Standing Lending Facility, should remain unchanged until the Monetary Board considered the next month's Monetary Policy Review.

Section 19.2.3 - The “Breakfast Meeting” on 26<sup>th</sup> February 2015, the reasons for that meeting and the decisions taken at that meeting

No request was made at the meeting of the Sub-Committee on Economic Affairs held on 24<sup>th</sup> February 2015 to raise funds at the Treasury Bond Auction to be held on 27<sup>th</sup> February 2015 for the purpose of paying amounts due on Road Projects or for any other purpose discussed at that meeting;

Section 19.2.4 - The meeting of the Market Operations Committee on 27<sup>th</sup> February 2015

Although there may have been good reasons requiring an urgent adjustment to the Interest Rates paid on overnight Standing Deposit Facility, Mr. Mahendran acted improperly and in excess of his authority when he, unilaterally and without the prior approval of the Monetary Board, issued a direction, on 27<sup>th</sup> February 2015, to withdraw or remove the Two-Tier Interest Rate Structure of the overnight Standing Deposit Facility and to direct that, only the single Interest Rate of 6.5% *per annum* be applied;

The forum which Mr. Mahendran chose to issue that directive - *ie*: the meeting of the Market Operations Committee - was a forum which had nothing to do with the determination of the Interest Rates applicable to the overnight Standing Deposit Facility/ Standing Lending Facility.

As a result of Mr. Mahendran’s directive, Overnight Interest Rates in the Market increased significantly, for a period of time. This increase in the Overnight Interest Rates would have influenced the short end of the Yield Curve of the Treasury Bond Market to move upwards.

This consequence becomes especially significant in the light of the subsequent events which took place on 27<sup>th</sup> February 2015 and the issue of 30 Year Treasury Bonds to the value of Rs. 10.058 billion at a Weighted Average Yield Rate of 11.7270%, which moved the long end of the Yield Curve of the Treasury Bond Market upwards, too.

Bringing about a Treasury Bond Yield Curve which has high Yield Rates, will give “leverage” for a person who holds Treasury Bonds acquired at such high Yield Rates, to profitably trade upon them if and when Yield Rates decline over time.

Section 19.2.5 - The Treasury Bond Auction held on 27<sup>th</sup> February 2015 and Arijuna Mahendran's intervention in that Auction

Mr. Mahendran knowingly acted improperly and wrongfully, and interfered in the decision-making processes at the Public Debt Department and, thereafter, at the Tender Board, and directed that, Bids to the value of Rs.10.058 billion be accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015;

The Public Debt Department had intended to accept Bids only to the value of Rs. 2.608 billion at this Auction at a Weighted Average Yield of 10.7244 and, after the closure of the Auction, to raise the balance that were required on 02 March 2015, by way of Direct Placements. The Public Debt Department would have had no difficulty in raising these balance funds, by way of Direct Placements, on 02<sup>nd</sup> March 2015.

The CBSL accepted Bids to the value of Rs.10.058 billion at the Treasury Treasury Bond Auction held on 27<sup>th</sup> February 2015 and issued 30 Year Treasury Bonds to the Face Value of Rs. 10.058 billion at this Auction, only due to and as a direct result of Mr. Mahendran's aforesaid instruction.

Mr. Mahendran's claim made to the Public Debt Department and the Tender Board that, it was necessary to accept Rs. 10 Billion to meet additional Government fund requirements, has been demonstrated to be false.

It is disappointing that Deputy Governors Silva and Weerasinghe, who were very experienced officers of the CBSL and bore a responsibility to look after the interests of the CBSL, remained silent and did not counsel Mr. Mahendran to desist from that course of action or, at the very least, record their opposition to the direction he issued to the PDD. We are of the view that, the aforesaid passive attitude adopted by Deputy Governors Silva and Weerasinghe, amounts to negligence and a breach of their responsibilities as Deputy Governors of the CBSL.

With regard Mr. Mahendran's intervention in the decision-making process of the Tender Board by instructing to Deputy Governor Samarasiri that, Bids to the value of Rs. 10.058 billion should be accepted, we find it disappointing that, Deputy Governor Samarasiri, who, as the Chairman of the Tender Board had a duty to ensure that the Tender Board reached an independent and considered decision, acted in gross breach of this duty and supinely obeyed the instructions given by Mr. Mahendran.

Mr Samarasiri's passivity negated the whole purpose for which the Tender Board was constituted. We are of the view that, the aforesaid conduct on the part of Deputy Governor Samarasiri amounts to gross negligence and a grave breach of his duties and responsibilities as the Chairman of the Tender Board and a Deputy Governor of the CBSL.

As a direct result of Mr. Mahendran's direction given to the PDD to accept Bids to the value of Rs. 10.058 billion, Perpetual Treasuries Ltd obtained Treasury Bonds to an aggregate value of Rs. 5 billion at Bid Prices ranging from 97.87800 to 91.99280 and Yield Rates [Net of Tax] ranging from 11.5002 to 12.5009, at the Treasury Bond Auction held on 27<sup>th</sup> February 2015.

Mr. Mahendran had to know that, as a result of his direction, Perpetual Treasuries Ltd would succeed in obtaining Treasury Bonds to the value of Rs. 2 billion at high Yield Rates and at low Bid Prices.

It is reasonable to conclude that, Mr. Mahendran directed that Bids to the value of Rs. 10.058 billion be accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 for the improper and wrongful collateral purpose of enabling Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds at that Auction, at low Bid Prices and high Yield Rates.

Perpetual Treasuries Ltd had "inside information" [or "price sensitive information"] that, Bids to a very high value would be accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 even though only a sum of Rs. 1 billion had been offered at the Auction.

Mr. Mahendran was the source from which Perpetual Treasuries Ltd obtained this "inside information" [or "price sensitive information"].

Mr. Mahendran acted wrongfully, improperly, *mala fide*, fraudulently and in gross breach of his duties as Governor of the CBSL when: (i) he instructed that, Bids to the value of Rs.10.058 billion be accepted at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 for the improper and wrongful collateral purpose of enabling Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds at that Auction at low Bid Prices and high Yield Rates; and (ii) when Mr. Mahendran provided "inside information" [or "price sensitive information"] to Perpetual Treasuries Ltd that, Bids to a very high value would be accepted at that Treasury Bond Auction even though only a sum of Rs. 1 billion had been offered at the Auction; Mr. Mahendran acted with the knowledge of and in collusion with Perpetual Treasuries Ltd.

### Section 19.2.6 - The Decision to stop Direct Placements

Mr. Mahendran acted improperly and in excess of his authority when he unilaterally and without the prior approval of the Monetary Board, directed the suspension or stoppage of Direct Placements with immediate effect from 27<sup>th</sup> February 2015.

Mr. Mahendran acted irresponsibly and, in fact, recklessly, when he suddenly directed the total suspension or stoppage of Direct Placements on 27<sup>th</sup> February 2015, without having first instructed the relevant Departments of the CBSL to study and report on the workings of the system of Direct Placements and ascertain the effect which a suspension or stoppage of Direct Placements would have on the Market and determine the manner in which any proposed suspension or stoppage of Direct Placements should be implemented.

The sudden removal had a significant impact on the Market, which by then was well used to the entrenched practice of CBSL issuing Treasury Bonds through the Direct Placements window.

As a result of the suspension or stoppage of the Direct Placements from 27<sup>th</sup> February 2015 onwards, the CBSL had no option, but to resort to Auctions whenever it needed to issue Treasury Bonds, and raise Public Debt. This resulted in the CBSL being solely dependent on the Yield Rates determined by the Market when the CBSL raised funds by way of Treasury Bonds;

Thus, Mr. Mahendran's act of suddenly directing the suspension or stoppage of Direct Placements on 27<sup>th</sup> February 2015, has caused grave prejudice to the Government and the CBSL ability to raise Public Debt at the "*lowest possible cost*" as the PDD is required to do.

In this connection, although on more than one occasion after 27<sup>th</sup> February 2015, the Monetary Board discussed whether Direct Placements should be resorted to on a limited basis, the CBSL did not reintroduce the acceptance of Direct Placements during the entire period of Mr. Mahendran's tenure as the Governor. Instead, the CBSL was able to raise the required funds by issuing Treasury Bonds at Auctions and by means of issuing other Government Securities albeit at the Rates that were determined by those processes.

We also note that, even though, after Dr. Indrajith Coomaraswamy assumed office as the Governor and the Monetary Board considered the re-introduction of a type of Direct Placements in July 2016, the CBSL considered it possible and advisable to introduce a new system of issuing Treasury Bonds, which uses the Auction method as the first "phase" of issuing Treasury Bonds and includes accepting a type of "Direct



Placements” as a possible later “phase” in specified circumstances, only more than one year later - *ie*: in July 2017.

This fact highlights the complexity of the issues involved and the numerous factors and considerations which must be taken into account when evaluating the relative merits and demerits of Auctions *vis-à-vis* Direct Placements including the comparable costs of raising Public Debt under the two methods of raising Public Debt.

In these circumstances, we are of the view that, although the aforesaid prejudice caused to Government and the CBSL by Mr. Mahendran’s act of suddenly directing the suspension or stoppage of Direct Placements on 27<sup>th</sup> February 2015, is bound to be very substantial, we do not consider that a monetary loss can be reliably computed due to the many variables and due to the numerous intervening circumstances, which have occurred since 27<sup>th</sup> February 2015.

Here again, Deputy Governors Silva and Weerasinghe were negligent and failed to fulfill their responsibilities as Deputy Governors by remaining silent when they heard the direction issued by Mr. Mahendran to suspend or stop Direct Placements.

Section 19.2.8 - The Hon. Prime Minister’s Statement in Parliament on  
17<sup>th</sup> March 2015

Mr. Mahendran and Mr. Samarasiri have deliberately and *mala fide* misled the Hon. Prime Minister and suppressed material facts and misrepresented the factual position when they reported the facts and events relating to the Treasury Bond Auction held on 27<sup>th</sup> February 2015, to the Hon. Prime Minister and submitted a Briefing Note to the Hon. Prime Minister.

While we do not, for even a moment, presume to make any pronouncement on events that transpired in Parliament, we consider that, Hon. Prime Minister would have been better advised, if he had independently verified what had happened at the CBSL on 27<sup>th</sup> February 2015, before making any statement, placing reliance on what was held out to him by Mr. Mahendran and Deputy Governor Samarasiri;

The evidence establishes that, Mr. Mahendran had not been instructed or directed by the Hon. Prime Minister to act unilaterally and immediately suspend or stop Direct Placements on 27<sup>th</sup> February 2015.

Instead, the Hon. Prime Minister expected Mr. Mahendran to go through the due Procedure - *ie*: of studying the issue and assessing the effect a suspension or stoppage of Direct Placements will have and, thereafter, if considered appropriate after that study was completed, draw up a considered plan of the manner in which such a decision was to be implemented and obtain the approval of the Monetary Board, before implementing any decision.

#### Section 19.2.10 - The “Pitipana Committee”

The CBSL did not take prompt action to implement the recommendations made in that Report to install Voice Recording Facilities and other monitoring mechanisms in the PDD and to improve the supervisory procedures of the PDD.

#### Section 19.2.11 - The Meeting of the Monetary Board of Sri Lanka on 11<sup>th</sup> April 2015

The decision taken at the meeting of the Monetary Board on 11th April 2015 held under the Chairmanship of Deputy Governor Samarasiri, to reduce the Interest Rates applied to the overnight Standing Deposit Facility Rate and Standing Lending Facility Rate, had a salutary effect and brought about a downward trend in both Yield Rates and Interest Rates.

#### Section 19.2.15 - Did the Treasury Bond Auction held on 27<sup>th</sup> February 2015 cause a loss to the Government? If so, how much was it?

It is reasonable to conclude that, as a result of Mr. Mahendran’s intervention and instruction to accept Bids to the value of Rs. 10.058 billion at the Auction held on 27<sup>th</sup> February 2015, the CBSL incurred an avoidable loss of Rs. 688,762,100/- which can be correctly and reasonably regarded to be a loss incurred by the Government, as a direct result of Mr. Mahendran’s aforesaid intervention and the instructions he gave.

The events of the Treasury Bond Auction held on 27<sup>th</sup> February 2015 caused considerable disruption and concern in the Market and substantial damage to the reputation of the CBSL and the PDD.

However, this damage, though grave, is not quantifiable.

There is also evidence which establishes that, the results of the Treasury Bond Auction on 27<sup>th</sup> February 2015 at which 30 Year Treasury Bonds were accepted at Yield Rates as high as 12.5009%, coupled with the removal, on the same day, of the Interest Rate

of 5% *per annum* paid on the overnight Standing Deposit Facility, caused an increase in Treasury Bond Yield Rates and the Interest Rates.

However, the evidence establishes that, over a period of time, especially after the reduction, on 11<sup>th</sup> April 2015, of the Interest Rates applied to the overnight Standing Deposit Facility and the Standing Lending Facility, Interest Rates declined and Treasury Bond Yield Rates also declined over time.

We also aware that, that there are several factors which influence movements in Interest Rates and Yield Rates and that it would be artificial to take the view that, the result of the Treasury Bond Auction held on 27<sup>th</sup> February 2015, is the sole reason for the trend of increasing Interest Rates and Yield Rates from 2015 onwards.

It has to be recognized that, after the Auction of 27<sup>th</sup> February 2015, there were a series of intervening events and developments in the economy, which had an effect on Interest Rates and Yield Rates and the Government Securities Market. Further, it hardly needs to be said here that, the economy of Sri Lanka faces several issues, including a massive debt burden, a balance of payments deficit, a trade deficit and several other difficulties which need not be listed here.

In these circumstances it is unreasonable to ascribe all the economic woes of Sri Lanka and the overall increase in Interest Rates and Treasury Bond Yield Rates after February 2015, solely to the Treasury Bond Auction of 27<sup>th</sup> February 2015.

In this connection, when this Commission of Inquiry considers whether a loss was caused to the Government as a result of the Treasury Bond Auction of 27<sup>th</sup> February 2015 and, if so, attempts to estimate such loss, we are obliged to keep in mind the principles of the Law relating to Causation and Remoteness of Damages.

In this connection we also note that the Auditor General has not sought to compute any consequent or long-term losses which were caused by the Treasury Bond Auction held on 27<sup>th</sup> February 2015. We note that, when Hon. Sunil Hadunnetti, MP gave evidence before us, he stated that COPE did not inquire into consequential losses or long terms losses.

We are of the considered opinion that, Mr. Mahendran is liable and responsible for the aforesaid loss of Rs. 688,762,100/- and that this loss should be recovered from Mr. Mahendran.

Further, since Perpetual Treasuries Ltd used “inside information” [“price sensitive information”] to its gain and benefit at the Treasury Bonds Auction held on 27<sup>th</sup> February 2015, this, Perpetual Treasuries Ltd is also liable and responsible for this loss Rs. 688,762,100/- and that this loss should also be recovered from Perpetual Treasuries Ltd.

Section 19.5.1 - Arijuna Mahendran suspends Reverse REPO Auction on 03<sup>rd</sup> March April 2016

The instruction given by Mr. Mahendran on 03<sup>rd</sup> March 2016 to stop Reverse REPO Auctions contributed towards creating circumstances in which Perpetual Treasuries Ltd was able to obtain Treasury Bonds at high Yield Rates, at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016 and 31<sup>st</sup> March 2016.

Section 19.5.3 - Treasury Bond Auction held on 24th March 2016

We see no reason to consider that, the Tender Board acted unreasonably or imprudently when it decided to reject all Bids received at the Treasury Bond Auction held on 24<sup>th</sup> March 2016, for the reason that the Yield Rates at which Bids had been placed, were unacceptably high.

Section 19.5.4 - The Meeting at the Ministry of Finance on 28<sup>th</sup> March 2016

In view of the undesirably high Yield Rates which then prevailed, it was reasonable and justifiable for the Ministry of Finance to wish to bring these Yield Rates down at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016.

There is no evidence before us which suggests that, that, Hon. Ravi Karunanayake, MP, the then Minister of Finance, Dr. Samaratunga, Secretary to the Ministry of Finance or any other officer of the Ministry Finance advised the CBSL of the instruction and assurance given to the three State Bank or took any steps to ensure that, the CBSL would honour that assurance.

Since Dr. Samaratunga, Secretary to the Ministry of Finance, who was present at this meeting, is also a member of the Monetary Board, he was personally obliged to convey to the CBSL that, the three State Banks had been instructed to place Bids within a specified range of Yield Rates at the Treasury Bond Auction to be held on 29<sup>th</sup> March 2016 and that, the three State Banks had been given an assurance that, Bids at higher Yield Rates would not be accepted at this Auction. There is no evidence that, Dr. Samaratunga did so.

The acceptance of Bids at the aforesaid Auction at higher Yield Rates than the Yield Rates at which the three State Banks had placed their Bids, did not result in these three State Banks incurring an actual or real loss but did, cause an “*opportunity loss*” or a “*notional loss*” to the three State Banks.

#### Section 19.5.6 - The Treasury Bond Auction held on 29<sup>th</sup> March 2016

We do not see any *ex facie* irregularity in the decision-making process which led to the CBSL accepting Treasury Bonds with an aggregate value of Rs. 77.732 billion at the Treasury Bonds Auction held on 29<sup>th</sup> March 2016. These Bids were accepted to raise part of the massive sum of Rs. 105 billion required on 01<sup>st</sup> April 2016, by the Department of Treasury Operations.

Mr. Arjun Aloysius had “inside information” [or “price sensitive information”] provided to him by a person or persons within the CBSL as to the likely “Cut Off Rates” up to which the CBSL would accept Bids at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016.

Mr. Arjun Aloysius had “inside information” [or “price sensitive information”] provided to him by a person or persons at the National Savings Bank and/or Bank of Ceylon or elsewhere that, the State Banks had been instructed to place Bids at low Yield Rates and were, therefore, likely to place restricted Bids at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016.

Perpetual Treasuries Ltd used this “inside information” [or “price sensitive information”] to help Perpetual Treasuries Ltd to obtain a high value of Treasury Bonds, at high Yield Rates, at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016.

There are grounds to suspect that, the EPF placed Bids for very low values at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016, in order to help Perpetual Treasuries Ltd obtain a high value of Treasury Bonds at high Yield.

#### Section 19.5.7 - The meeting at the Ministry of Finance on 30<sup>th</sup> March 2016

In view of the undesirably high Yield Rates which then prevailed, it was reasonable and justifiable for the Ministry of Finance to wish to bring these Yield Rates down at the Treasury Bond Auction to be held on 30<sup>th</sup> March 2016.

There is no evidence that, Hon. Ravi Karunanayake, MP, the then Minister of Finance or any other officer of the Ministry of Finance advised the CBSL of the assurance given to the three State Banks at that meeting.

The acceptance of Bids at the aforesaid Auction at higher Yield Rates than the Yield Rates at which the three State Banks had placed their Bids, did not result in these three State Banks incurring an actual or real loss but did, cause an “*opportunity loss*” or a “*notional loss*” to the three State Banks.

#### Section 19.5.8 - The Treasury Bond Auction held on 31<sup>st</sup> March 2016

We do not see any *ex facie* irregularity in the decision-making process which led to the CBSL accepting Treasury Bonds with an aggregate value of Rs. 50.010 billion at the Treasury Bond Auctions held on 31<sup>st</sup> March 2016.

#### Section 19.5.11 - Did the Treasury Bond Auctions held on 24<sup>th</sup>, 29<sup>th</sup> and 31<sup>st</sup> March 2016 cause a loss to the

Government ? If so, how much was it ?

With regard to the Treasury Bond Auction held on 24<sup>th</sup> March 2016, we have determined that, the Tender Board did not act unreasonably or imprudently when it decided to reject all Bids received at the Treasury Bond Auction on 24<sup>th</sup> March 2016, since the Yield Rates at which Bids had been placed at this Auction were unreasonably high.

Therefore, in these circumstances, we do not consider that, that the Treasury Bond Auction held on 24<sup>th</sup> March 2016 and the results of that Auction, caused any avoidable loss to the CBSL.

With regard to the Treasury Bond Auction held on 29<sup>th</sup> March 2016, as stated in Section 19.5.6 above, we have determined that, the evidence does not establish any *ex facie* irregularity in the decision-making process which led to the CBSL accepting Treasury Bonds with an aggregate value of Rs. 77.732 billion at this Auction held on 29<sup>th</sup> March 2016.

Therefore, in these circumstances, we cannot conclude that, any actions or omission of the part of the CBSL during the course of this Auction, caused an avoidable loss to the CBSL.

The evidence establishes that, Mr. Arjun Aloysius and Perpetual Treasuries Ltd had “inside information” [or “price sensitive information”] which Perpetual Treasuries Ltd used to obtain a high value of Treasury Bonds, at high Yield Rates, at the Treasury Bond Auctions held on 29<sup>th</sup> March 2016;

Since computing the quantum, in monetary terms, of the gain and benefit which Perpetual Treasuries Ltd obtained by using the “inside information” [“price sensitive information”] at the Treasury Bond Auction on 29<sup>th</sup> March 2016 requires technical expertise and will be time consuming, we have recommended that, the extent to which Perpetual Treasuries Ltd gained and benefitted from the aforesaid “inside information” [or “price sensitive information”] is estimated, by means of a Forensic Audit or similar method, and be recovered from Perpetual Treasuries Ltd.

Finally, with regard to the Treasury Bond Auction held on 31<sup>st</sup> March 2016, as stated in Section 19.5.8 above, we have determined that, we do not see any *ex facie* irregularity in the decision-making process which led to the CBSL accepting Treasury Bonds with an aggregate value of Rs. 50.010 billion, at this Auction held on 31<sup>st</sup> March 2016.

Therefore, we cannot, in these circumstances, conclude that, any actions or omission on the part of the CBSL during the course of this Auction, caused an avoidable loss to the CBSL.

Further, as stated earlier, we have no direct or circumstantial evidence before us which establishes or suggests that, Perpetual Treasuries Ltd had “inside information” [or “price sensitive information”] regarding this Treasury Bond Auction held on 31<sup>st</sup> March 2016.

## Chapter 20 - Perpetual Treasuries in the Secondary Market

The Total Net Cash Inflows received [monetary gains made] by Perpetual Treasuries Ltd from all Sales of Treasury Bonds bearing seven specified ISINs [which were issued during the period from 01<sup>st</sup> February 2016 to 31<sup>st</sup> March 2016] and are relevant to our Mandate, aggregate to Rs.11,145,221,479/99/-.

The Total Net Cash Inflows received [[monetary gains made] by Perpetual Treasuries Ltd from the aforesaid Sales of Treasury Bonds to the EPF and other Statutory Bodies and Government Institutions, aggregate to Rs. 8,529,964,495/61/



Only Rs.2.615 billion of the aforesaid Net Cash Inflow received by Perpetual Treasuries Ltd accrued from the Sale of Treasury Bonds to private entities. The entirety of the balance sum of Rs. 8.539 billion accrued to Perpetual Treasuries Ltd from the sale of Treasury Bonds to the EPF and other Statutory Bodies and Government Institutions;

Chapter 21 - The Employees' Provident Fund in the Primary Market and Secondary Market in Treasury Bonds

The Net Cash Inflow [[monetary gains made] by Perpetual Treasuries Ltd from the sales of Treasury Bonds to the EPF bearing the seven specified ISINs [which were issued during the period from 01<sup>st</sup> February 2016 to 31<sup>st</sup> March 2016], in the Secondary Market, during the period relevant to our Mandate, aggregate to Rs. 6.4 billion.

Thus, the Net Cash Inflows [[monetary gains made] by Perpetual Treasuries Ltd from the sales of the aforesaid Treasury Bonds to the EPF, amounts to 57% of the total Net Cash Inflow of Rs. 11.145 billion received by Perpetual Treasuries Ltd from all sales of the aforesaid Treasury Bonds, in the Secondary Market, during the period relevant to our Mandate.

These stark figures raise questions with regard to the circumstances in which the Transactions between Perpetual Treasuries Ltd and the EPF were entered into.

However, we are obliged to take note that, as stated in Chapter 13, the CBSL has conducted an examination of the Transactions entered into by the EPF and has submitted a Report to the Monetary Board. The Monetary Board has advised us that, it is taking appropriate action with regard to the matters set out in the Report and that this Report must be treated as confidential.

Therefore, we did not require the production of this Report in evidence, taking into account the reasons stated by the Governor of the CBSL.

We trust that, the Monetary Board and the CBSL will carry out a full and complete investigation into the Transactions entered into by the EPF and identify whether a loss was caused to the EPF and, if so, identify the persons responsible and, seek to recover such loss from the persons responsible.

We trust that, where appropriate, the Monetary Board and CBSL will consider whether persons who are found to have committed any dishonest acts or who have received inducements in return for entering into Transactions on behalf of the EPF, should be prosecuted.

In this connection, we hardly need to point out that, the Monetary Board and the senior officers of the CBSL act in the capacity of trustees with regard to the EPF.

In view of these circumstances, we did not examine, in detail, the Transactions entered into by the EPF in the Secondary Market.

However, in Chapter 21, we set out several pertinent observations with regard to the manner in which the EPF transacted its business and concerns which this Commission of Inquiry has, in that regard.

We trust the CBSL will take due note of these observations too, in the course of its investigation and action in this regard.

#### Chapter 23 - Perpetual Treasuries Ltd's Profits and how they were made

The evidence establishes that, Perpetual Treasuries Ltd has made the major part of its Profits by means of using "inside information" ["price sensitive information"] and by means of "market manipulation";

We are of the view that, in the aforesaid circumstances, Perpetual Treasuries Ltd has knowingly violated and acted in breach of the provisions of the Code of Conduct for Primary Dealers, which has been issued by the CBSL under and in terms of the Regulations issued under the Registered Stock and Securities Ordinance No. 7 of 1937;

We are of the view that, the Total Net Cash Inflows [[monetary gains made] amounting to Rs. 8,529,964,495/61/- received by Perpetual Treasuries Ltd from the Sales of Treasury Bonds, during the period relevant to our Mandate, to the EPF and other Statutory Bodies and Government Institutions, were made by using "inside information" ["price sensitive information"] and by "market manipulation".

We are of the view that, in the aforesaid circumstances, the Hon. Attorney General and other appropriate authorities should consider whether Perpetual Treasuries Ltd is liable for prosecution for an offence in terms of the aforesaid S: 56A(1) of the Registered Stock and Securities Ordinance and, in the event of a conviction being

entered by a learned Magistrate after Summary Trial, Perpetual Treasuries Ltd could be held liable to a fine equivalent to twice the value of the aforesaid sum of Rs. 8,529,964,495/61/- or in such other sum as the Court may determine.

We are also of the view that, the evidence placed before us establishes that, Mr. Arjun Aloysius and Mr. Kasun Palisena were both parties to and directly responsible for the aforesaid violation and breach of the Code of Conduct for Primary Dealers, by Perpetual Treasuries Ltd and, therefore, fall within the scope of the description *“every person who at the time of the commission of the offence was a director or an officer of the body corporate shall be deemed to be guilty of that offence.”* in Section 56B of the Registered Stock and Securities Ordinance No. 7 of 1937.

Chapter 24 - Perpetual Treasuries Ltd and Hon. Ravi Karunanayake, MP - the apartment and the meetings at Ministry of Finance in March 2016

We are of the view that the evidence before us suggests that, Hon. Ravi Karunanayake, while he was Minister of Finance derived a substantial benefit from the Lease Payments made by Walt and Row Associates (Pvt) Ltd, which is an Associate Company of Perpetual Treasuries Ltd and which is owned and controlled by the same persons who own and control Perpetual Treasuries Ltd.

We are of the view that, these facts and circumstances should be examined by the Commission to Investigate Allegations of Bribery or Corruption, who may determine whether appropriate action should be taken against Hon. Ravi Karunanayake, MP, under the Bribery Act No.11 of 1954.

We also are of the view that, the Hon. Attorney General and other appropriate authorities should also consider whether some of the evidence given by Hon. Ravi Karunanayake has been shown to have been incorrect and, if that is the case, whether there are grounds for prosecutions under Section 179 and/or Section 188 of the Penal Code or other relevant provision of the Law, read with Section 9 of the Commissions of Inquiry Act No. 17 of 1948.

Chapter 25 - Arjuna Mahendran - was there a conflict of interest due to his relationship with Arjun Aloysius? did some of Arjuna Mahendran's actions assist Perpetual Treasuries Ltd ?

A Governor of the CBSL has a duty to not allow himself to be placed in a situation where he has a relationship with a Primary Dealer or with any person who has a material beneficial interest in a Primary Dealer or who may derive a material financial benefit from a Primary Dealer or who is in a position to control the operations of a Primary Dealer.

We consider that, the Governor of the CBSL is bound to observe the duty of good faith and act in a fiduciary capacity when he performs the functions of his office. We consider that the Governor can be correctly regarded as a trustee of the interests of the CBSL who has to act *bona fide* in the best interests of the CBSL.

Further, the character of the office of a Governor of the CBSL, places a duty on the Governor to refrain from placing himself in a position where there is a conflict of interest between his personal interests and his duties to the CBSL.

Mr. Mahendran has unequivocally admitted that there was a potential conflict of interest which arose from the relationship he had with his son-in-law.

There is no doubt that, Mr. Mahendran full well recognized that, there was potential for a grave conflict of interest arising from the fact that he was the Governor of the CBSL and his son-in-law was closely associated with the Primary Dealer named Perpetual Treasuries Ltd.

Having admitted that there was a potential for conflict of interest, Mr. Mahendran went on to state that, he was confident that he could "*handle it*" and avoid a conflict of interest arising by performing his duties as Governor "*in a transparent manner*" and by keeping any decisions affecting Perpetual Treasuries Ltd "*at arm's length*".

Mr. Mahendran had repeatedly assured the Hon. Prime Minister that, Mr. Mahendran would ensure that Mr. Arjun Aloysius severed all connections with Perpetual Treasuries Ltd, However, Mr. Mahendran failed to honour his word.

Instead, Mr. Arjun Aloysius continued to be closely involved in the day-to-day operations of Perpetual Treasuries Ltd, was a key decision-maker at Perpetual Treasuries Ltd and was in control of Perpetual Treasuries Ltd. Mr. Aloysius also did not dispose of his beneficial ownership of Perpetual Treasuries Ltd.

Mr. Mahendran had to be aware of the role Mr. Aloysius continued to play in Perpetual Treasuries Ltd.

Although Mr. Mahendran admitted that there was a potential for a conflict of interest, there is no record of Mr. Mahendran having formally advised the Monetary Board that there was a potential for a conflict of interest arising from the fact that his son-in-law was closely associated with the Primary Dealer named Perpetual Treasuries Ltd. There is also no record of Mr. Mahendran having recused himself from decisions which affected Perpetual Treasuries Ltd.

Further, although Mr. Mahendran stated that, he was confident that he could “*handle it*” and avoid a conflict of interest arising by performing his duties as Governor “*in a transparent manner*” and by keeping any decisions affecting Perpetual Treasuries Ltd “*at arm’s length*”, there were several instances where Mr. Mahendran had acted in a manner which benefitted Perpetual Treasuries Ltd.

#### Chapter 26 - The Hon. Prime Minister’s role in matters relevant to our Mandate

Mr. Arjuna Mahendran was appointed the Governor of the CBSL, on 23<sup>rd</sup> January 2015 and, thus, the appointment of Mr. Mahendran was made before the period of our Mandate commenced and we have no jurisdiction to determine the merits or demerits of that appointment.

However, in view of the circumstances referred to in Chapter 26, we decided to briefly look at these issues, though we will not, in view of the confines of our Mandate, venture to arrive at any determination on these issues.

When Mr. Mahendran was appointed as Governor of the CBSL, he had: a “*hands on*” knowledge of the CBSL after having worked at the CBSL for a considerable period of time; working experience in the field of Fiscal Policy at the Ministry of Finance; a long and successful career in International Banking thereafter, where he held high level management positions and gained in-depth exposure to and experience of International Finance; knowledge of international Markets which Sri Lanka needs to participate in; and also experience as a Chairman of the Board of Investment of Sri Lanka.

In this connection, we also note that, from 2004 onwards, the Governor of the CBSL has been a person appointed to that post from outside the cadre of Officers of the CBSL and have been persons with no experience in ‘Central Banking’. In fact, to the

best of our knowledge, Mr. Mahendran is the only Governor during the period from 2004 onwards who has had extensive experience in 'Banking'.

Next, although we believe Mr. Mahendran was a Sri Lankan Citizen at birth, he has assumed Citizenship of the Republic of Singapore at some point before 2015. Thus, at the time he was appointed the Governor of the CBSL, Mr. Mahendran was not a Citizen of Sri Lanka. He has not assumed Citizenship of Sri Lanka after 2015.

The provisions of the Monetary Law Act, the Constitution and the Law do not require that the Governor of the CBSL must be a Citizen of Sri Lanka.

It is also clear that, Mr. Mahendran, who, we believe was a Sri Lankan Citizen at birth and, further, had his Primary and Secondary Education in Sri Lanka and appeared to have been well qualified to handle the duties of a Governor of the CBSL, has deep roots in Sri Lanka and has had continuous connections with Sri Lanka despite working abroad for many years and assuming Citizenship of the Republic of Singapore, at some point in time.

In these circumstances, the question of whether or not the fact that, Mr. Mahendran was not a Citizen of Sri Lanka precluded him from being appointed the Governor of the CBSL was not a 'Question of Law'. Instead, it was a 'value judgment' which had to be made by those who considered the wisdom of appointing Mr. Mahendran, who was not a Citizen of Sri Lanka, as the Governor of the CBSL.

Prior to 2015, the CBSL was placed under the Ministry of Finance. In 2015, the CBSL has been brought under the Minister of National Policies and Economic Affairs.

That is a decision taken by the Executive which is entirely outside the scope of our Mandate.

At the time Mr. Mahendran was appointed the Governor of the CBSL, the Hon. Prime Minister had been aware of the potential for a conflict of interest and has directed that, Mr. Mahendran must ensure that, Mr. Arjun Aloysius resigns from all positions he held in Perpetual Treasuries Ltd and that, Mr. Aloysius must not have any connection with the operations of Perpetual Treasuries Ltd. Further, the Hon. Prime Minister has recommended that, Mr. Aloysius divests himself of any shareholdings in Perpetual Treasuries Ltd. Subsequently, Mr. Aloysius has resigned from all positions he held in Perpetual Treasuries Ltd.

Mr. Mahendran has repeatedly assured the Hon. Prime Minister that, Mr. Aloysius *“would not under any circumstances play any role in the business activities of”* Perpetual Treasuries Ltd.

It appears that, the Hon. Prime Minister has relied on those assurances given by Mr. Mahendran.

We consider that, the confidence which the Hon. Prime Minister states he placed in the assurances given to him by Mr. Mahendran, was misplaced. We are of the view that, the more prudent course of action would have been for the Hon. Prime Minister to have independently verified whether Mr. Mahendran was, in fact, honouring the assurances he gave the Hon. Prime Minister. We regret that, the Hon. Prime Minister did not take that course of action.

With regard to Direct Placements, the instruction given by the Hon. Prime Minister to Mr. Mahendran was only that, Mr. Mahendran should *consider* the change and was not an instruction to immediately act unilaterally and order that the acceptance of Direct Placements be immediately stopped or suspended.

The evidence establishes that the Hon. Prime Minister fully expected Mr. Mahendran to comply with due procedure and conduct a comprehensive study into the matter and for this study to be considered by the Monetary Board, before a decision was taken with regard to Direct Placements.

Next, when the results of the Treasury Bond Auction held on 27<sup>th</sup> February 2015 became known and there were several allegations that, Mr. Mahendran had interfered in the Auction, to benefit Perpetual Treasuries Ltd, the Hon. Prime Minister appointed the three-member ‘Pitipana Committee’ to inquire into and report on the matter.



We are of the view that the members of the ‘Pitipana Committee’ [comprising of three senior and reputed Attorneys-at-Law] did not possess technical knowledge or practical knowledge in the considerably complex arena of Government Securities and Public Debt.

Although, we see that, the Hon. Prime Minister has sought to supplement that lack of expertise by ensuring that, the members of the “Pitipana Committee” had the assistance of Dr. W.A. Wijewardena [a former Deputy Governor of the CBSL] with regard to the technical aspects of the matter being inquired into, we consider that, a more effective Inquiry could have been done if the “Pitipana Committee” also had members who had knowledge and experience in the technical and practical aspects of the matter being inquired into.

Next, with regard to the Statement made in Parliament by the Hon. Prime Minister on 17<sup>th</sup> March 2017, in which he states, *inter alia*, that, Mr. Mahendran had not interfered in the Treasury Bond Auction of 27<sup>th</sup> February 2015, we have held that, the evidence establishes that, Mr. Mahendran and Deputy Governor Samarasiri, deliberately and *mala fide*, misled the Hon. Prime Minister and suppressed material facts and misrepresented the factual position when they reported the events relating to the Treasury Bond Auction held on 27<sup>th</sup> February 2015, to the Hon. Prime Minister and also when they submitted a Briefing Note to the Hon. Prime Minister, with regard to the events of that Auction.

While we do not, for even a moment, presume to make any pronouncement on events that transpired in Parliament, we consider that, the Hon. Prime Minister would have been better advised, if he had independently verified what had happened at the CBSL on 27<sup>th</sup> February 2015, before making any statement, instead of relying on the Briefing Note and report submitted to him by Mr. Mahendran and Deputy Governor, Samarasiri.

We note that, the Report of the “Pitipana Committee” did not determine that, there was any impropriety in the conduct of the Treasury Bond Auction held on 27<sup>th</sup> February 2015 and that, consequently, Mr. Mahendran [who had been on leave pending the completion of the Inquiry of the “Pitipana Committee” and the submission of its Report] resumed duties as Governor of the CBSL when there was no finding of impropriety.

In any event, soon thereafter, Parliament has resolved to inquire into the Treasury Bond Auction held on 27<sup>th</sup> February 2015, through the COPE of the Seventh Parliament and, later, through the COPE of the Eighth Parliament. That process of Inquiry by Parliament was completed only in October 2016.

The Hon. Prime Minister has stated that, since the matter was in the hands of the Parliament, the Hon. Prime Minister could not have taken further steps in that regard.

We consider that, the position may have been different if the Committee or other body which carried out this Inquiry had the benefit of members who had knowledge and experience in the technical and practical aspects of the matter being inquired into.

In the meantime, since no finding of impropriety or bad faith had been made against him, Mr. Mahendran continued to serve as Governor of the CBSL until his term ended on 30<sup>th</sup> June 2016 and he was not re-appointed.

While we are fully cognizant that, Parliament has supreme authority and control over Public Finance and matters related thereto, we are of the view that, Inquiries into highly technical and complex matters such as the issue of Government Securities and the raising of Public Debt, are more effectively and completely carried out by an Investigative Committee or an Investigative Tribunal which has some legal training and, importantly, is equipped with knowledge and experience in the technical and practical aspects of the matter being inquired into or has the ability to effectively draw on the resources of persons who have such knowledge and experience.

Chapter 29 - Perpetual Treasuries Ltd Deletes Telephone Call Recordings and crashes a computer

The evidence establishes that, Perpetual Treasuries Ltd, wrongfully and fraudulently, deleted Call Recordings for the purpose of concealing the true nature of the Transactions entered into by Perpetual Treasuries Ltd and attempted to suppress evidence with regard to wrongful acts of Perpetual Treasuries Ltd.

The evidence establishes that, Mr. Arjun Aloysius and Mr. Kasun Palisena were the persons responsible for the aforesaid acts and that Mr. Nuwan Salgado and Mr. Sachin Devathanthri carried out the orders given to them by Mr. Palisena who acted on the instructions of and/or with the full knowledge of Mr. Arjun Aloysius.

We are of the view that, the Hon. Attorney General and other appropriate authorities should consider whether these acts amount to criminal offences under Chapter X and Chapter XI of the Penal Code, including Sections 175, 189, 193, 198 and 201 of the Penal Code read with Section 9 of the Commissions of Inquiry Act No. 17 of 1948 and, if considered so, institute appropriate prosecutions against the appropriate persons.

Further, we note that, the Hon. Attorney General and other appropriate authorities should consider whether, Mr. Palisena's statements, in the Affidavit affirmed to by him were false and, if that is the case, whether there are grounds for prosecutions under Section 179 and/or Section 188 of the Penal Code or other relevant provision of the Law, read with Section 9 of the Commissions of Inquiry Act No. 17 of 1948.

\*\*\*\*\*

On this 30<sup>th</sup> day of December 2017,

-----  
Justice K.T. Chitrasiri  
Judge of the Supreme Court  
Chairman, Commission of Inquiry

-----  
Justice Prasanna Jayawardena, PC  
Judge of the Supreme Court  
Member of the Commission of Inquiry

-----  
Kandasamy Veluppillai esq  
Retired Deputy Auditor General  
Member of the Commission of Inquiry

# **APPENDIX**

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- 2. Appendix “B1”  
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- 5. Appendix “D”  
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- 6. Appendix “E”  
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EXTRAORDINARY

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(Published by Authority)

**PART I : SECTION (I) — GENERAL**  
**Proclamations & C., by the President**

P.S. No. : CSA/1/COI/MS/02.

**BY HIS EXCELLENCY MAITHRIPALA SIRISENA**

**PRESIDENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**



Seal

MAITHRIPALA SIRISENA

To :

1. Hon. Kankani Tantri Chitrasiri Esquire  
Judge of the Supreme Court
2. Hon. Prasanna Sujeewa Jayawardana  
Judge of the Supreme Court
3. Mr. Kandasamy Velupillai  
Retired Deputy Auditor General

Greetings !

Whereas, irregularities committed in respect of the matter referred to in the Schedule hereto have been brought to my notice ;

And noting that the scope of the investigation and inquiry into the said matter under this warrant would not in any way impose a fetter upon the relevant authorities including the Central Bank of Sri Lanka (hereinafter referred to as "the CBSL") exercising their statutory and legal responsibilities and also taking note that the relevant authorities are empowered in terms of the applicable written laws to consider and, where possible pursue available action, in terms of the applicable written laws, notwithstanding the inquiry an investigations conducted in terms of this warrant ;





And noting that this investigation and inquiry under this warrant is in addition to and without prejudice to any measures that have been taken or which will be taken by relevant authorities including the CBSL, in the exercise of their statutory and legal responsibilities in the aforesaid manner ;

And whereas, it has become necessary to inquire and investigate into such matter referred to in the schedule hereto and to identify those persons alleged to have been so involved in such irregularities committed in respect of the matter referred to in the said schedule hereto, in case such irregularities are found to be true ;

And whereas, it has also become necessary to identify the person or persons responsible for such irregularities committed in respect of the said matter referred to in the said schedule hereto ;

And whereas, I am of the opinion that it is in the national interest to conduct such investigation and inquiry in respect of the matter referred to in the said schedule hereto in order to determine what measures should be adopted to ensure that there will be no recurrence of such acts in the future ;

Whereas, I am of the view that it is necessary that a Commission of Inquiry be appointed to investigate and inquire into and report on the said matter referred to in the said schedule hereto ;

Now therefore I, Maithripala Sirisena, President of the Democratic Socialist Republic of Sri Lanka reposing great trust and confidence in your prudence, ability and fidelity, do, in pursuance of the provisions of Section 2 of the Commissions of Inquiry Act (Chapter 393) as amended, by these presents appoint you, the said ;

1. Hon. Kankani Tantri Chitrasiri Esquire  
Judge of the Supreme Court
2. Hon. Prasanna Sujewa Jayawardana  
Judge of the Supreme Court
3. Mr. Kandasamy Veluppillai  
Retired Deputy Auditor General

to be my Commissioners to investigate and inquire into and report on the following namely :

- (a) the management, administration and conduct of affairs of the Central Bank of Sri Lanka in respect of the matter referred to in the said Schedule hereto,
- (b) whether there has been any malpractice or irregularity, or non-compliance with or disregard of the proper procedures applicable in relation to, such management, administration and conduct of affairs in relation to the said matter referred to in the said schedule hereto resulting in damage or detriment to the Government or any statutory body including the CBSL,
- (c) Whether any contractual obligations relating to the said matter referred to in the said schedule hereto have been entered into or carried out, fraudulently, recklessly, negligently or irresponsibly, resulting in damage or detriment to the Government or any statutory body including the CBSL,
- (d) whether there has been non-compliance with, or disregard of, the proper procedure applicable to the calling of tenders or the entering into of agreements or contracts relating to such matter referred to in the said schedule hereto on behalf of the Government,
- (e) whether such non-compliance with, or disregard of proper procedures in respect of the said matter referred to in the said schedule hereto has resulted in the improper or irregular or discriminatory award of any such tender for sale of bonds referred to in the said schedule hereto,
- (f) whether proper procedures and adequate safeguards have been adopted to ensure that the said matter referred to in the said schedule hereto resulted in obtaining the optimum price or benefit for the Government,



- (g) the person or persons responsible for any act, omission, or conduct, which has resulted in such damage or detriment to the Government or any statutory body including the CBSL, in respect of the said matter referred to in the said schedule hereto ;
- (h) whether any inquiry or probe into any of the aforesaid matter referred to in the said schedule hereto had been obstructed or prevented in any manner, resulting in damage or detriment to the Government or any statutory body including the CBSL, and, if so, the person or persons responsible for such obstruction ;
- (i) the procedures which should be adopted in the future to ensure that such matter referred to in the said schedule hereto are carried out with transparency and with proper accountability with a view to securing the optimum price or benefit for the Government ;
- (j) whether there has been misuse or abuse of power, influence, interference, fraud, malpractices, nepotism or any act or omission connected with corrupt activity in relation to the said matter referred to in the said schedule hereto.

And to make recommendations with reference to the matter referred to in the said schedule hereto that have been inquired or, investigated into under the terms of this warrant.

And I do hereby appoint you the said Hon. Kankani Tantri Chitrasiri Esquire, to be the Chairman of the said Commission.

And I do hereby authorize and empower you, the said Commissioners, to hold all such inquiries and make all other investigations, into the aforesaid matter referred to in the said schedule hereto as may appear necessary, and require you to transmit to me within three months from the date of this warrant a report thereon under your hand, setting out the findings of your inquiries and investigations, and your recommendations relating thereto.

And I do hereby direct such part of any investigation or inquiry relating to the aforesaid, matter referred to in the said schedule hereto as you may in your discretion determine, shall not be held in public ;

And I do hereby require and direct all public officers, and other persons to whom you may apply for assistance or information to render all such assistance and furnish all such information as may be properly rendered and furnished in that behalf ;

And I do hereby declare that the provisions of Section 14 of the aforesaid Commissions of Inquiry Act shall apply to the Commission.

Given at Colombo under the seal of the Democratic Socialist Republic of Sri Lanka on this 27 day of January, Two Thousand and Seventeen.

By Order of His Excellency,

P. B. ABEYKOON,  
Secretary to the President.

### Schedule

1. The issuance of Treasury Bonds during the period of 1st February 2015 and 31st March 2016 (hereinafter referred to as "such treasury bonds") ;

- (a) The decision making processes that preceded the issuance of such treasury bonds including the decisions relating to -
- (i) the sum of money to be raised by each such treasury bond issue ;
  - (ii) the rate of interest payable on such treasury bonds or the method of determination of the rate of interest payable ;
  - (iii) the dates on which interest on such treasury bonds shall be payable ;
  - (iv) the rate at which, and the periods at the end of which, appropriation out of the Consolidated Fund and assets of Sri Lanka shall be made as a contribution to the sinking fund established for the purpose of redeeming such treasury bonds and the date from which such contributions shall commence ;
  - (v) the date of redemption of such treasury bonds.
- (b) The disposal of such treasury bonds by the Primary Dealers, Direct Participants or Dealer Direct Participants.

02-558

C 362, J 20/11/2017.

20/10/17

I, Ranil Wickremesinghe, the Prime Minister and Minister of National Policies & Economic Affairs of "Temple Trees", Colombo 3 being a Buddhist do hereby solemnly, sincerely and truly declare and affirm as follows,

1. I am the affirmant above named.
2. The PRESIDENTIAL COMMISSION OF INQUIRY TO INVESTIGATE, INQUIRE AND REPORT THE ISSUANCE OF TREASURY BONDS DURING THE PERIOD 01<sup>ST</sup> FEBRUARY 2015 TO 31<sup>ST</sup> MARCH 2016, by letter dated 10<sup>th</sup> October 2017 has sought my replies to the questions set out in the document annexed thereto marked "A". Accordingly, in response to the said questions I have set out hereunder my answers from my personal knowledge and upon a perusal of the relevant documents.
3. The said questions and my replies thereto are as follows;

[1] Question number 1 is as follows-

**"Mr Arjuna Mahendran, former Governor of the Central Bank of Sri Lanka (CBSL) has testified before this Commission of Inquiry that, sometime in early January 2015, you invited him to accept appointment as the Governor of the CBSL.**

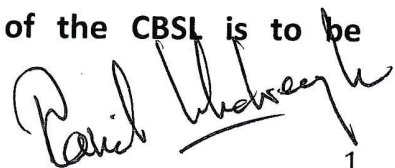
**Is Mr Mahendran's claim correct?"**

My reply is as follows-

Yes. It is correct that sometime in January 2015, I invited Mr Arjuna Mahendran to serve as the Governor of the CBSL of Sri Lanka (CBSL)

[2] Question number 2 is as follows-

**"In terms of Section 12 of the Monetary Law Act No. 58 of 1949, as amended, the Governor of the CBSL is to be**



1



appointed by His Excellency, the President on the recommendation of the Minister in charge of the subject of Finance.

**Was Mr Mahendran appointed to the post of the Governor of the CBSL on a recommendation made by the then Hon. Minister of Finance and/or on a recommendation made by you as the Hon. Minister of National Policies and Economic Affairs (which is the Ministry under which the CBSL has been placed)?”**

My reply is as follows-

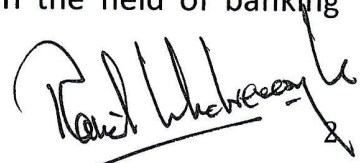
Upon the formation of the new Government in January 2015 there was a general consensus within the Government that Mr Mahendran should be appointed to the post of Governor of CBSL. I discussed the proposed appointment with the then Minister of Finance who agreed that Mr Mahendran was the most suitable candidate. Accordingly, the then Minister of Finance with my concurrence recommended to His Excellency the President that Mr. Mahendran should be appointed. His Excellency the President acting upon the said recommendation appointed Mr Arjuna Mahendran as the Governor of the CBSL.

[3] Question number 3 is as follows-

**“If the answer to Question [1] above is in the affirmative and/or the answer to Question [2] above is that a recommendation was made by you, please briefly state the reasons why you considered Mr Mahendran to be a fit and proper person to be appointed the Governor of the CBSL?”**

My reply is as follows-

Mr Mahendran was selected for appointment in view of his professional qualifications and experience in the field of banking



and investments. He had functioned as the Chairman of the BOI during the period 2002 to 2004. He had also held senior positions in the banking industry in Middle East and Singapore. The previous incumbent lacked comparable qualifications and experience and the administration of the CBSL during his tenure of his office had been the subject of severe criticism. Hence, prior to the General Election of 2015 there was a general demand from our political allies that a competent person versatile in banking and International finance should be appointed to the post of Governor of the CBSL.

[4] Question number 4 is as follows-

**“At the time of Mr Mahendran’s appointment as the Governor of the CBSL, he was not a citizen of Sri Lanka.**

**Please briefly state your views on the suitability of a person who is not a citizen of Sri Lanka, performing the duties of the Governor of the CBSL.”**

My reply is as follows-

Although at the time of his appointment Mr Mahendran had ceased to be a citizen of Sri Lanka, he was nevertheless, of Sri Lankan origin. He used to regularly visit his parents who were resident in Colombo and as such he had an abiding interest in, and connection with Sri Lanka. Many Sri Lankans had left the country for positions abroad due to the unsettled conditions prevalent in the country at various times.

The fact that Mr Mahendran was not a citizen of Sri Lanka did not affect his suitability or eligibility and was not a legal impediment to his appointment as the Governor of CBSL. In this context, it is to be noted that the very first Governor of the Central Bank, namely, Mr. John Exeter had been an American national. Likewise, Mr. Mark

Joseph Carney who is not a British subject but a Canadian national is the current Governor of the Bank of England.

[5] Question number 5 is as follows-

**“The evidence before this Commission of Inquiry suggests that, Mr Mahendran’s son-in-law Mr Arjuna Aloysius, was the Chief Executive and a Director of the Primary Dealer named Perpetual Treasuries (Pvt) Ltd, in the year 2014 and up to sometime in January 2015, when he is said to have resigned from both posts. The evidence also suggests that, even after the aforesaid resignations in January 2015, Mr Arjuna Aloysius continued to be a Shareholder and Director of Perpetual Capital Holdings (Pvt) Ltd., Perpetual Capital (Pvt) Ltd, which was the ultimate owner of Perpetual Treasuries (Pvt) Ltd.**

- (i) In 2015 and 2016, were you aware of the matters referred to above?**
- (ii) If the answer to Question [5](i) is in the affirmative, did you consider that, the aforesaid matters raised a potential conflict of interests which could confront Mr Mahendran in the performance of his duties as the Governor of the CBSL?”**

My reply to 5(i) is as follows-

I was aware that Mr. Mahendran’s son-in law Mr. Aloysius was the Chief Executive and Director of the primary dealer Perpetual Treasuries (Pvt) Ltd.

My reply to 5(ii) is as follows-





When Mr. Mahendran was offered the post of the Governor of the CBSL, I insisted that he should ensure that Mr Aloysius would resign as a Director of Perpetual Treasuries (Pvt) Ltd, and not involve himself in the business activities of that company in anyway. I also strongly recommended that the best course would be for Mr Aloysius to divest himself of his shares in the company. This was conveyed by me both to Mr Mahendran as well as to Mr Aloysius. Subsequently, I became aware that Mr Aloysius had in the month of January itself resigned from the post of Chief Executive Officer and Director of Perpetual Treasuries (Pvt) Ltd. I also became aware that however he remained a Shareholder of that company and he intimated that he would divest himself of the shareholdings as soon as possible. On expressing my concerns on this account, Mr Mahendran reassured me that Mr Aloysius would not under any circumstances play any role in the business activities of the company. I had every confidence in the assurances given by Mr Mahendran and as such I had no reason to apprehend that any conflict of interest would be faced by Mr Mahendran in functioning as the Governor of the CBSL.

[6] Question number 6 is as follows-

**"In any event, did you inquire from Mr Mahendran with regard to any potential conflict of interest arising from the fact that Mr Mahendran's son-in-law, Mr Arjuna Aloysius was known to be closely connected to a Primary Dealer?**

**If so, what did Mr Mahendran tell you?"**

My reply is as follows-

I did on several occasions convey to Mr Mahendran my concerns about a possible conflict of interest arising from his son-in-law Mr Aloysius having a connection with a Primary Dealer. Mr Mahendran as set out above reassured me that Mr Aloysius would not engage in the activities of the company as indicated above. In



view of the circumstances, I was confident as set out above that a situation of a conflict of interest would not arise.

[7] Question number 7 is as follows-

**"The evidence before this Commission of Inquiry suggests that, although Mr Arjuna Aloysius is said to have resigned from the posts of Chief Executive and Director of Perpetual Treasuries (Pvt) Ltd sometime in January 2015, he continued to play an active role in the day to day operations of that Company from then on during 2015 and 2016?"**

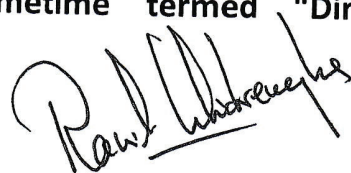
**Were you aware that, Mr Arjuna Aloysius continued to play an active role in the day to day operations of that Company even after he is said to have resigned from the posts of Chief Executive and Director of Perpetual Treasuries (Pvt) Ltd. sometime in January 2015?"**

My reply is as follows-

I was aware that Mr Aloysius had resigned from the post of Chief Executive and Director of Perpetual Treasuries (Pvt) Ltd, in January itself. But, I was totally unaware of any role that he may have played in that company after his resignation. I was confident that in view of the assurances given to me by Mr Mahendran that Mr Aloysius would not participate in the conduct or affairs of the company.

[8] Question number 8 is as follows-

**"Mr Mahendran has testified before this Commission of Inquiry that, in January 2015 and February 2015, he had conveyed to you alleged unsatisfactory features in the then prevailing practice of the CBSL raising funds by way of "Private Placements" [also sometime termed "Direct Placements"] of Treasury Bonds.**



**Is Mr Mahendran's aforesaid statement correct?"**

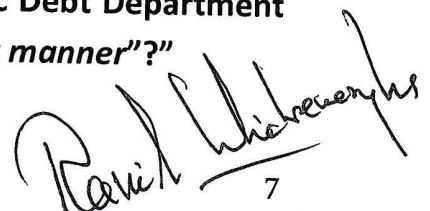
My reply is as follows-

The unsatisfactory features in the practice of CBSL raising funds by way of private placements was a matter of grave concern and severe criticism during the tenure of office of the previous Government. This issue had been raised in the public domain by civil society and had been the subject of discussion in Parliament. It was alleged that the favourites of the then Government had been given an opportunity by reason of the acceptance of private placements of making unconscionable profits as there was no transparent selection of the beneficiaries. With the formation of the new Government in January 2015, this subject was discussed at several Ministerial meetings at which relevant officials were present. Mr Mahendran was also present at some of these meetings and he too agreed that the system of resorting to private placements was unsatisfactory.

[9] Question number 9 is as follows-

**"Mr Mahendran testified before this Commission of Inquiry that, sometime in early February 2015, you instructed him that, all procurements made by the CBSL should be carried out *"in a transparent manner"*.**

- (i) Is Mr Mahendran's aforesaid statement correct?**
- (ii) If the answer to Question [9](i) is in the affirmative, did such instructions given by you also apply to the raising of Public Debt by the Public Debt Department?**
- (iii) If the answer to Question [9](ii) is in the affirmative, what did you intend to convey when you instructed that, the raising of Public Debt by the Public Debt Department should be carried out *"in a transparent manner"*?"**

  
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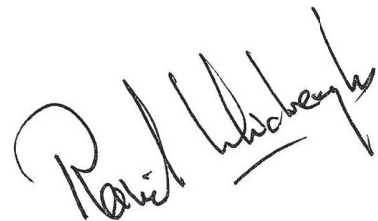
My reply is as follows-

- (i) Yes. This was applicable not only to CBSL but also to all Departments and Institutions under the purview of my Ministry.
- (ii) Yes. As I stated above, the raising of funds by way of private placements of Treasury Bonds had been subject to severe criticism as it was completely devoid of any transparency. The Monetary Board had authorized the issuance of Treasury Bonds either by way of private placements or by way of public auctions. It was the view of all concerned in the new Government that in order to achieve more transparency the raising of funds by way of Public Auction was preferable to the private placement method. This view was conveyed to Mr Mahendran.

[10] Question number 10 is as follows-

**Mr Mahendran has subsequently claimed before this Commission of Inquiry that, on 24<sup>th</sup> February 2015, you instructed him that, the practice of accepting Private Placements of Treasury Bonds should be stopped. Mr Mahendran went on to suggest that, he interpreted that alleged instruction to mean he should *immediately stop* the practice of accepting Private Placements of Treasury Bonds.**

**Did you, in fact, instruct Mr Mahendran, on 24<sup>th</sup> February 2015, to *immediately stop* the practice of accepting Private Placements of Treasury Bonds?'**



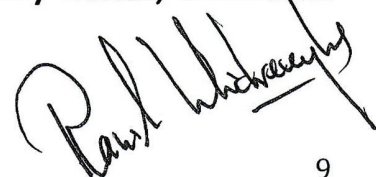


My reply is as follows-

As I stated earlier, the acceptance of private placements of Treasury Bonds was regarded as unsatisfactory primarily due to lack of transparency. In addition, the policy of the new Government was that the rates of exchange and of interest should be determined by market forces, and not be pegged down artificially. It was for these reasons that we advocated that Treasury Bonds be accepted mainly through Public Auction. Mr Mahendran as the Governor of CBSL was aware of this. At that time the practice was for majority of the bonds to be issued by recourse to private placements and the balance by Public Auction. Therefore, in February 2015 when I was informed that the CBSL was to issue bonds to raise funds, I insisted that Mr. Mahendran should consider the issuance of Bonds by way of Public Auction in accordance with the economic policy of the Government and I expected that he would comply with due procedure.

[11] Question number 11 is as follows-

**“The evidence before this Commission of Inquiry suggests that, any sudden stoppage of the practice of accepting Private Placements of Treasury Bonds was likely to significantly impact the Government Securities Markets, the Treasury Bond Yield Curve and Interest Rates paid and offered by Bank, especially since, by February 2015, the practice of the CBSL accepting Private Placements of Treasury Bonds had become entrenched in the Government Securities Market and Private Placements accounted for over 80% Public Debt raised by way of Treasury Bonds during a period of two years or so. Further, the evidence before this Commission of Inquiry suggests that, in terms of the Monetary Law Act and the procedures which then prevailed in the CBSL, any proposal to stop the entrenched practice of accepting Private Placements of Treasury Bonds, should be**



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**considered by the Monetary Board and decided upon by the Monetary Board, before it was implemented.**

**If your answer to Question [10] above is in the affirmative, in the light of the aforesaid considerations, what did you expect Mr Mahendran to do in pursuance of any instruction you may have given to him, on 24<sup>th</sup> February 2015, with regard to Private Placements?"**

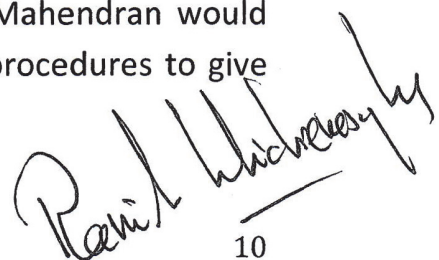
My reply is as follows-

During the tenure of the office of the previous Government, the determination of interest rate in the Government securities market had been distorted by moving away from a market based mechanism. This had led to a loss of investor confidence.

To the best of my knowledge, private placements were not entrenched in the securities market.

Furthermore, as private placements invariably took funds from captive sources such as the EPF, the beneficiaries of such funds received diminished returns on their savings. Our policy has always been to encourage market mechanisms and to further macro economic liberalization including the rates of interest and exchange to be determined by the market. Therefore, traders and other relevant stakeholders would have reasonably expected a return or revival of the public auction system as much as possible as envisaged in the CBSL manual in determining interest rates. Consequently, any adverse impact on the market would have been minimal in the short term and off set by long-term investor confidence.

In the circumstances, it was expected that Mr Mahendran would take appropriate steps in accordance with due procedures to give

  
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effect to the objectives of the Government as expeditiously as possible in the light of concerns expressed by me.

If any further clarification is required from a legal perspective, the Attorney General would assist the Commission.

[12] Question number 12 is as follows-

**“The evidence before this Commission of Inquiry suggests that, the Ministry of Finance had identified that a substantial sum of money was required to fund payments which were then due to Contractors on account of road works and other projects and that these fund requirements may not have been previously accounted for and/or provided for by the Ministry of Finance in 2014.**

**The evidence before this Commission of Inquiry suggests that, the Monthly Cash Flows forwarded by the Treasury to the Department of Public Debt in the Months of February 2015 and March 2015 do not call for any funds to be raised for the above purpose in February 2015 or March 2015.**

**The evidence before this Commission of Inquiry suggest that, a meeting was held at the CBSL on 26<sup>th</sup> February 2015 to discuss how to raise the funds required to make these payments and that, the then Hon. Minister of Finance and several others attended this meeting. The evidence suggest that, at this meeting, it was decided that a Deputy Governor of the CBSL will prepare a report identifying the payments that were due and submit that report to the Ministry of Finance. The evidence also suggests that, it was decided that another meeting was to be held later for the purpose of considering the report to be prepared by the Deputy Governor of the CBSL and to then decide on the payments that had to be made in the short term. Further, the evidence suggests that, the proposed second meeting was held at the**

*Ronald Whalley*  
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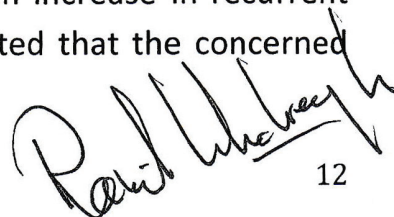
**Ministry of Finance sometime in early March 2015 and that the Contractors to whom payments were immediately due attended this meeting and decisions were taken with regard to payments to be made to Contractors in the short term.**

**Thus, at present, the evidence before this Commission of Inquiry suggests that, the funds required for these payments were to be raised only in the months of April or May 2015 and that, there was no requirement for any funds for this purpose to be raised at the Treasury Bond Auction held on 27<sup>th</sup> February 2015 or at Treasury Bond Auctions to be held during the month of March 2015.**

**In this background, did you instruct Mr Mahendran to raise funds for the aforesaid payments at the Treasury Bond Auction held on 27<sup>th</sup> February 2015?"**

My reply is as follows-

It is incorrect to state that funds for the payment of contractors for road works and other development work were required to be raised only in the months of April or May and that the monthly cash flows forwarded by the Treasury to the Department of Public Debt in the months of February 2015 and March 2015 did not call for any funds to be raised for the above in February or March 2015. Towards the end of February 2015 at the Cabinet Sub Committee on the Economic Management, Budget proposals for which funds were needed and development projects for which payments were due, were discussed. The Minister of Highways stated that there was an urgent need of funds for road development projects, which were undertaken by the previous Government for which the Treasury was unable to provide funds. The Interim Budget also involved additional expenditure including an increase in recurrent and capital expenditure in March. I requested that the concerned



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Ministers and officials of the Treasury and CBSL meet as soon as possible. Subsequently, they including the Governor CBSL had met on 26<sup>th</sup> February 2015 and they determined that Rupees Fifteen billion was urgently required. By this time, CBSL has already decided on a bond issue on 27 February 2015. Mr Mahendran informed me that evening he may be able to raise money far in excess of Rupees One billion in the Bond Auction fixed for 27<sup>th</sup> February 2015. Any further details of cash flow and fiscal affairs for those months could be obtained from the Secretary to the Ministry of Finance.

[13] Question number 13 is as follows-

**“Did Mr Mahendran have any discussions or conversations with you prior to 27<sup>th</sup> February 2015 and/or 27<sup>th</sup> February 2015, with regard to the Treasury Bond Auction held on 27<sup>th</sup> February 2015?”**

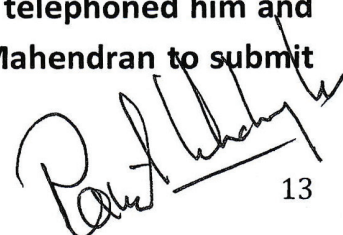
My reply is as follows-

Mr. Mahendran did inform me that the Monetary Board had fixed a Treasury Bond Auction for the 27<sup>th</sup> of February 2015.

In the evening of 26<sup>th</sup> February he informed me that since it transpired at the meeting held with the Minister of Highways and others, that there was an urgent requirement of Rupees Fifteen billion to pay for the ongoing road works, it may be possible to raise at least a part of it at the Auction fixed for the 27<sup>th</sup> of February. After the Auction held on the 27<sup>th</sup> of February 2015, he informed me that in fact Rupees Ten billion had been raised.

[14] Question number 14 is as follows-

**“Mr Mahendran has stated to this' Commission of Inquiry that, subsequent to the Treasury Bond Auction held on 27<sup>th</sup> February 2015, Hon. Dr. Harsha de Silva telephoned him and conveyed that you had requested Mr Mahendran to submit**



a **“Briefing Note”** with regard to the events relevant to that Treasury Bond Auction.

**Is Mr Mahendran’s statement correct?”**

My reply is as follows-

I recall instructing Dr. Harsha De Silva the then Deputy Minister of Policy Planning and Economic Affairs to request Mr Mahendran to provide a note pertaining to the procedure followed at the Auction held on 27<sup>th</sup> February 2015.

[15] Question number 15 is as follows-

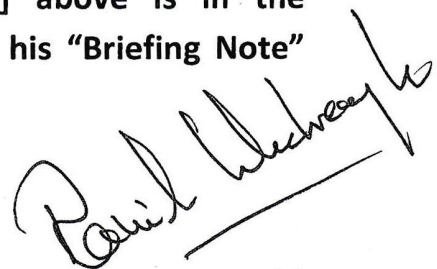
**“Did Mr Mahendran submit a “Briefing Note” to you, with regard to the events relevant to the Treasury Bond Auction held on 27<sup>th</sup> February 2015?”**

My reply is as follows-

Upon receipt of the questionnaire forwarded by the Commission I directed my officials to cause a search to be made in my office for briefing notes submitted by Mr Mahendran. Consequently my officials have traced in my Secretary’s computer a briefing note titled **“Factual Information on the Issue of 30 year Treasury Bond by the Central Bank on 27/2/2015 – the Procedure Followed”** forwarded by Deputy Governor Mr Samarasiri. I have been advised by my officials that there are no other briefing notes traceable at my office. A copy of the said briefing note is annexed hereto marked X1.

[16] and [17] - Question numbers 16 and 17 are as follows-

**“[16] If the answer to Question [15] above is in the affirmative, did Mr Mahendran state in his “Briefing Note” that:**



**(i) He had visited the Public Debt Department on two occasions on 27<sup>th</sup> February 2015 – i.e. in the morning (alone) and shortly after noon (together with Deputy Governor Weerasinghe and Deputy Governor Silva)?**

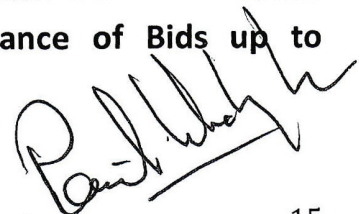
**(ii) During the second visit together with the two Deputy Governors, Mr Mahendran had stated to the officers of the Public Debt Department that Bids up to approximately Rs. 10 billion should be accepted?**

**(iii) If the answer to Question [16](ii) is in the affirmative, did Mr Mahendran describe such a statement made by him to the officers of the Public Debt Department to be in the nature of a specific instruction issued to the officers of the Public Debt Department on what amount was to be recommended by the Public Debt Department to the Tender Board or to be in the nature of a suggestion for evaluation and consideration by the officers of the Public Debt Department when they were deciding on the amount to be recommended by the Public Debt Department to the Tender Board?"**

**[17] If the answer to Question [15] above is in the affirmative, did Mr Mahendran state in his "Briefing Note"**

**(i) Subsequently, in the afternoon of 27<sup>th</sup> February 2015, during the course of the meeting of the Tender Board held to consider the recommendations of the Public Debt Department and decide on the amount of Bids to be accepted, Mr Mahendran had spoken, on the telephone, with Deputy Governor Samarasiri who was chairing that meeting of the Tender Board?**

**(ii) During this telephone conversation, Mr Mahendran stated to Deputy Governor Samarasiri that the Tender Board should approve the acceptance of Bids up to approximately Rs. 10 billion?**





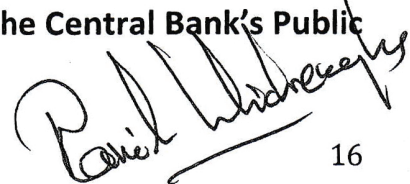
**(iii) If the answer to Question [17](ii) is in the affirmative, did Mr Mahendran describe such a statement made by him to Deputy Governor Samarasiri to be in the nature of a specific instruction issued to the Tender Board on what amount should be accepted or to be in the nature of a suggestion for evaluation and consideration by the Tender Board when the Tender Board was deciding the amount to be accepted?"**

My reply to 16 and 17 is as follows-

By way of answer to questions 16 and 17 I state that the available briefing note marked X 1, relates only to the procedure followed at the Auction held on 27<sup>th</sup> February 2015. I do recollect however that Mr Mahendran did in the course of conversations with me, refer to other attendant circumstances pertaining to the Auction held on 27<sup>th</sup> February 2015. In this context I have referred to these circumstances in the speech made by me in Parliament on 17 March 2015, to which reference has been made in Question Nos. 18, 19 and 20.

[18] Question number 18 is as follows-

**"On 17<sup>th</sup> March 2015, you made a statement in Parliament with regard to the 'ISSUE OF TREASURY BONDS'. During the course of that statement, you have said "I insisted on a public auction because private placements have led to corruption and lack of transparency. Previously, parcels of Government Bonds were handed out to selected individuals on a favoured basis through a system of private placement. It took place outside the normal auctions of Government Bonds. These are what the Primary Dealers are saying. You must look at the facts .... Private placements were usually as large as ten times bigger than the amount of Government Bonds sold through the auctions .... This led to an unhealthy link between some of the officers of the Central Bank's Public**



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Debt Department, Primary Dealers and large corporations who benefitted from such private placements. This practice only enriched a handful of cronies of the previous Government ... Records confirm that private placements had become a norm rather than an exception.”

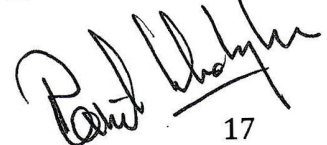
What were the sources of information you relied on when you made those observations?”

My reply is as follows-

The Commission would no doubt appreciate that this relates to a statement made by me in Parliament which is vested with the control of Public Finance. I have already referred to the criticism that had been levelled against “Private Placements” and the reasons for the policy decision in favour of Public Auction. The then Government was unable to give requisite answers to the questions in Parliament as to what exactly had taken place through Private Placements. The unhealthy links referred to in question No. 18 were gathered by a group of MPs which included, Eran Wickramaratne, Dr. Harsha De Silva, Sujeewa Senasinghe and several others, and also from comments made by other Parliamentarians and News Paper Reports.

[19] and [20] Question numbers 19 and 20 are as follows-

“[19] During the course of your aforesaid statement to Parliament on 17<sup>th</sup> March 2015, you have also stated that, on 27<sup>th</sup> February 2015, Mr Mahendran advised [‘උපදෙස් දුන්නා’] the Public Debt Department, in the presence of two Deputy Governors [i.e. Dr Weerasinghe and Mr Silva] that, Bids up to Rs. 10 billion should be accepted. You have then gone on to say that, the allegation Mr Mahendran interfered in the decision of the Public Debt Department with regard to its recommendation on the amount of Bids to be accepted, was factually incorrect. [‘මහ බැංකුවේ අධිපතිවරයා මේකට සම්බන්ධ වුණාය කියලා කරුණු නැහැ. එය සත්‍යයෙන් තොරයි.]



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**What were the sources of information you relied on when you made this statement?**

**“[20]. During the course of your statement to Parliament on 17<sup>th</sup> March 2015, you have also stated that, the allegation that Mr Mahendran interfered in the decision of the Tender Board was factually incorrect. මහබැංකු අධිපතිවරයා ටෙන්ඩර් මණ්ඩලයේ කටයුතුවලට මැදිහත් වූවාය කියන චෝදනාව පදනමෙන් තොරයි.”**

**What were the sources of information you relied on when you made this statement?”**

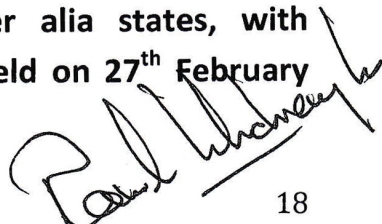
My reply is as follows-

The statement made by me in Parliament on 17<sup>th</sup> March 2015 was based on information relating to attendant events pertaining to the said auction provided by Mr Mahendran and Mr Samarasiri - Deputy Governor of the CBSL and Chairman of the Tender Board and in the course of conversations with me.

I stated that neither the Monetary Board nor I was the proper authority to inquire into the issue. I also informed Parliament that the Pitipana Committee appointed by me was required to inquire into the matter impartially and I undertook to table their Report in Parliament on receipt of same. I also stated that it was open to Parliament to take appropriate steps including the setting up of a Select Committee in the event that the Parliament was not satisfied with the Report.

[21] Question number 21 is as follows-

**“The Report of the “Three Person Committee” chaired by Mr Gamini Pitipana, Attorney-at-Law inter alia states, with regard to the Treasury Bond Auction held on 27<sup>th</sup> February**



2015, "The Committee at this stage can only make an observation that the bidding pattern of Perpetual Treasuries and securing nearly 50% of the accepted bids as unusual." The Committee goes on to observe that "... a full-scale investigation by a proper Government Authority is warranted."

The Report also states, "The Committee also observes, from the information placed before the Committee, that there is a serious lack of transparency pertaining to the activities of the PDD of the CBSL. There is no proper supervision of the activities of the Primary Dealers and the PDD. There is no recording of calls, there is no log of documents received, no supervision of electronic footprint; such as text messages and emails between officials of the PDD and the Primary Dealers."

The Report recommends, inter alia, that, a proper supervisory and monitoring mechanism should be implemented with regard to the activities of the Public Debt Department and the Primary Dealers.

The Report also recommends that, "... a full-scale investigation by a proper Government Authority is warranted upon the activities of the PDD and its officials and any other Department of CBSL and its officers, to ascertain whether there is any truth in the assumptions pertaining to sensitive information of the CBSL being compromised."

Are you aware of any action taken by the CBSL and/or by the Ministry of National Policies and Economic Affairs, with regard to the aforesaid observations and recommendations?"





My reply is as follows-

At that time, the Pitipana Committee of inquiry had not submitted its Report. I apprised Parliament that the Report of the Committee was awaited and that upon receipt it will be placed before Parliament to enable Parliament to take such action as it deemed appropriate. Subsequently, the Pitipana Report was tabled by me in Parliament and a debate ensued in Parliament. It was decided that COPE should go into this matter in full. The COPE Report was received and forwarded to the Attorney General for necessary action at my instance. I am aware that a team of members from the Attorney General's Department have been appointed to consider the Report. I have instructed the Attorney General to take steps according to law against any persons who are culpable, irrespective of their status or party affiliations.

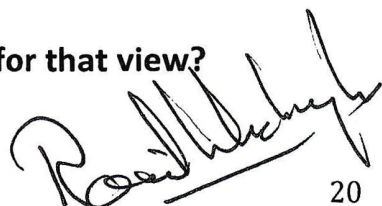
A new Monetary Law is being prepared which will also address some of the matters referred to in the Pitipana Report. We have also strengthened Parliament's oversight of the CBSL by establishing the Public Finance Committee and making the Economic Oversight Committee responsible for reporting on the CBSL.

I decided to look into the transactions prior to 2015 once the COPE Report was tabled. This has been postponed until the conclusion of the sittings of the Presidential Commission.

[22] Question number 22 is as follows-

**“Did you consider that, it was fit and proper for Mr Mahendran to continue to serve as Governor of the CBSL after the events of the Treasury Bond Auction held on 27<sup>th</sup> February 2015?**

**If so, please briefly state the reasons for that view?**



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My reply is as follows-

As stated above I had already tabled the Pitipana Report in Parliament and a debate ensued. Parliament decided to refer this issue to COPE and was awaiting a report in order to take appropriate action in this regard in the event that Mr Mahendran was found to be culpable. In the interim, Mr Mahendran went on leave and his tenure of office ended prior to the submission of the COPE Report. As stated above, I have forwarded the COPE Report to the Attorney General to take appropriate action if there has been any transgression of the law by Mr Mahendran or any other person.

[23] Question number 23 is as follows-

**“In 2015 and 2016, was the Ministry of National Policies and Economic Affairs (which is the Ministry under which the CBSL is placed), regularly informed by the CBSL [for example, on a daily, weekly, monthly, quarterly, half yearly or annual basis] of the results of Primary Auctions of Treasury Bonds?**

**If so, what was the information that was provided and how often was such information provided?”**

My reply is as follows-

There were weekly meetings of officials evaluating the progress made by the Ministries and the financial situation in the country, as well as weekly meetings of the Cabinet Committee on Economic Management at which meetings, the Governor of the CBSL was one of the persons in attendance. At these meetings the overall situation of the economy is evaluated. Even though details of Primary Auctions of Treasury Bonds are not discussed or revealed the amount of monies raised through Treasury Bonds and amounts

required to be raised in the future inevitably surface at these meetings.

[24] Question Number 24 is as follows-

**“In 2015 and 2016, was the Ministry of National Policies and Economic Affairs (which is the Ministry under which the CBSL is placed), regularly informed by the CBSL [for example, on a daily, weekly, monthly, quarterly, half yearly or annual basis] of the transactions done by Primary Dealers on the Secondary Market of Treasury Bonds?**

**If so, what was the information that was provided and how often was such information provided?”**

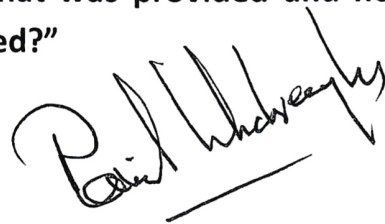
My reply is as follows:

Transactions done by Primary Dealers on the Secondary Market of Treasury Bonds was not dealt by the Ministry of National Policies and Economic Affairs. The Minister only focuses on the overall economic performance. As such information pertaining to these are not called for or made available to the Minister.

[25] Question Number 25 is as follows-

**“In 2015 and 2016, were the Minutes of Meetings of the Monetary Board, Board Papers and Reports considered by the Monetary Board and other Reports of the CBSL, submitted to the Ministry of National Policies and Economic Affairs (which is the Ministry under which the CBSL is placed), on a daily, weekly, monthly, quarterly, half yearly or annual basis?**

**If so, what was the information that was provided and how often was such information provided?”**

A handwritten signature in black ink, appearing to read "Paul Whaley", is written over the bottom right portion of the text in the previous block. The signature is written in a cursive style and is positioned above a horizontal line.



My reply is as follows-

The Minutes of meetings of the Monetary Board, Board Papers and Reports considered by the Monetary Board and other Reports of the CBSL are not submitted to the Ministry of National Policies and Economic Affairs. The Governor of the CBSL would keep me informed of important decisions and matters relevant to the Monetary Board and CBSL at weekly meetings.

[26] Question Number 26 is as follows-

**“A copy of a text message said to have been sent to Mr Arjuna Aloysius by his Personal Assistant [Mr Steve Samuel] on 28<sup>th</sup> November 2016 and which states ‘Reminder – to request Hon. PM & RK to get a copy of Monetary Board meeting/papers need to be submitted today 28.11.16’, has been produced in evidence before this Commission of Inquiry.**

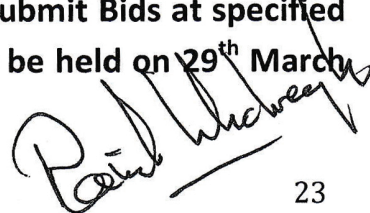
**Have you ever provided or agreed to provide copies of Minutes of Meetings of the Monetary Board or any other documents or reports of the CBSL, to Mr Arjuna Aloysius or to any representative of Perpetual Treasuries (Pvt) Ltd.?”**

My reply is as follows-

I deny that I had agreed to provide or provided copies of Minutes of meetings of the Monetary Board meetings/papers to Mr Aloysius or any other person. I resent the insinuation.

[27] Question Number 27 is as follows-

**“There is evidence before this Commission of Inquiry which suggests that, on 28<sup>th</sup> March 2016 and 30<sup>th</sup> March 2016, the then Hon. Minister of Finance met senior officers of the Bank of Ceylon, the People’s Bank and the National Savings Bank and instructed that these three Banks submit Bids at specified Rates at the Treasury Bond Auctions to be held on 29<sup>th</sup> March**



2016 and 31<sup>st</sup> March 2016. The evidence also suggests that, at these two meetings, the then Hon. Minister of Finance indicated to the officers of these Banks that, the CBSL would not accept Bids at Rates which were higher than the Rates specified by him and that, accordingly, the three Banks submitted Bids at the specified Rates. However, the evidence suggests that, in fact, when these two Treasury Bond Auctions were held, the CBSL had accepted Bids at Rates which were considerably higher than the Rates at which these Banks had placed Bids based on the instructions given by the then Hon. Minister of Finance.

**Were you aware, in March or April 2016, of the aforesaid meetings and events?"**

My reply is as follows-

I am unaware of the meetings referred to in paragraph 27.

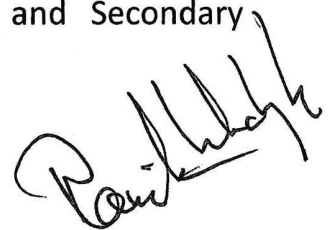
[28] Question Number 28 is as follows-

**"Are there any observations, comments or information which you consider will be relevant or useful to this Commission of Inquiry in carrying out its Mandate.**

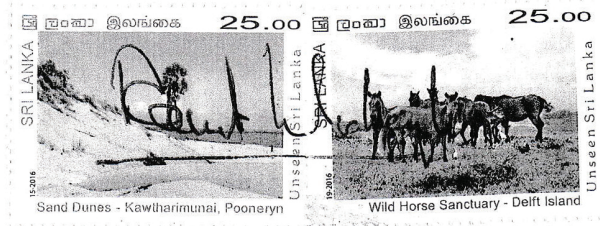
**If so please state such observations, comments or information."**

My reply thereto is as follows-

- i. The Commission may recommend measures to ensure further transparency in transactions in the Primary and Secondary Government Securities markets.



- ii. It may also recommend measures to address the conflict of interest that currently exists in the CBSL due to the Public Debt Department acting as Agent of the Government for its borrowing requirements while the EPF Department of the CBSL being the largest lender to the Government.
- iii. The Commission may determine whether the prevalence of insider trading in securities markets is wide spread and if so, suggest remedial measures.



Before me,

Affirmed to on this 22<sup>th</sup> )  
day of October, 2017, at )  
Colombo. )

Sumathipala Udugamasuriya  
Attorney-at-Law, Notary Public &  
Commissioner for Oaths.  
162/11, Duwa Road, Beddagana, Pitakotte.  
Tel. 011-2868108



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**AFFIDAVIT**

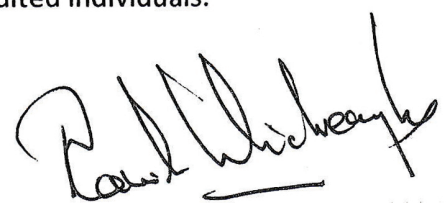
I, Ranil Wickremesinghe, the Prime Minister and Minister of National Policies & Economic Affairs, of "Temple Trees", Colombo 3, being a Buddhist do hereby solemnly, sincerely and truly, declare and affirm as follows.

1. I am the affirmant above-named.
2. The Presidential Commission of Inquiry to Investigate, Inquire and Report on the Issuance of Treasury Bonds during the period 1<sup>st</sup> February 2015 to 31<sup>st</sup> March 2016, by letter dated 10<sup>th</sup> November 2017 has sought my replies to the questions 2, 7, 11, 14, 16, 17, 18, 19, 21, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34 and 35 contained in the annexure thereto. Accordingly, in response to the said questions, I have set out herein my answers, from my personal knowledge and a perusal of the relevant documents.
3. The said questions and my replies thereto are as follows.
4. Question number [2] is as follows:

**"[2] Why didn't you take steps to fill the two Monetary Board vacancies no sooner you filled the Governor's post? Wasn't it important and critical to make these appointments without delay?"**

My reply is as follows-

There was a general consensus in the new Government, that the several vacancies in statutory boards and corporations should be filled to the extent required to ensure a quorum, and that further appointments be made after an even more thorough vetting process, which would ensure the appointment of the most suited individuals.





In addition to the *ex officio* office bearers of the Monetary Board, the other Members are appointed by His Excellency the President on the recommendation of the Minister of Finance, with the concurrence of the Constitutional Council. However, with regard to these appointments the Minister of Finance acted on my advise in making his recommendations.

5. Question numbers [7], [27] and [30] are as follows-


**“[7] Please see Cabinet Sub-Committee on Economic Affairs Meeting Minutes of 24.02.2015 & 03.03.2015.**

- (a) In terms of RDA Projects the decision was that all road projects to be prioritized and implemented with available funds? A list to be prepared and finalised next week. (Vide Minutes of Meeting 24.02.2015).
- (b) At the next meeting as far as RDA Projects were concerned it had been decided only to evaluate and re-negotiate with the funding agents (Vide Minutes of Meeting on 03.03.2015).

Therefore, having regard to the above there was no urgent funding requirement which was discussed or agreed upon?”

**“[27] In response to question No.12, you have stated that it is incorrect to state that funds for payment of contractors for roadworks was not required to be raised in February or March 2015. However, documents in evidence before this Commission, including the relevant monthly cash flows and the minutes of the meeting of the Cabinet Sub Committee on Economic Management in February 2015 indicate that there was no such requirement. The said Cabinet Sub Committee has in fact decided that these payments should be met with available funds. So, on what basis do you substantiate your position?”**

**“[30] The briefing note you have produced at X1 does not refer to an urgent funding requirement of Rs.15 billion for payment of contractors for roadworks nor the breakfast meeting held on 26.02.2015. It only refers to the Rs.13.5 billion which was already in the cash flow for the week ending**



**02.03.2015. In this background, can you explain why you have in your response to question No.12 and in your Statement in Parliament on 17.03.2015 linked the Rs.15 billion for payment of contractors for roadworks and the breakfast meeting held on 26.02.2015 with the funds raised via the treasury bond auction of 27.02.2015?"**

My reply is as follows-

Although at the meeting of the Cabinet Sub Committee on Economic Affairs held on 24<sup>th</sup> February 2015 it is recorded that *"All road projects to be prioritized and implemented with available funds"*, I was subsequently informed by the Minister of Highways that only about Rupees One Billion was in fact available to make payments for these projects.

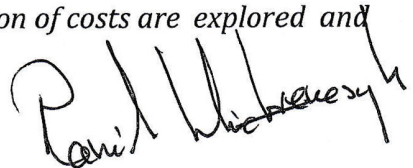
I requested the concerned Ministers and officials of the Treasury and CBSL to give priority to sorting out how the funds could be obtained.

Therefore when the meeting of 26<sup>th</sup> February 2015 was held they had decided that Rs. 15 Billion was urgently required.

By the next meeting of the Cabinet Sub Committee on Economic Affairs of 3<sup>rd</sup> March 2015, the money raised at the Auction of 27<sup>th</sup> February 2015 was available. It was decided to *"expedite and finish the ongoing rural road projects in order to uplift the rural economy"* and also that the *"cost of highways to be evaluated in a scientific manner and renegotiated with the funding agencies"*.

At the Cabinet Sub Committee on Economic Affairs Meeting on 10<sup>th</sup> March 2015 it was noted that *"A list of outstanding payments on road projects has already been prepared. It was advised to obtain the outstanding lump sum to be paid from Line Ministries. A committee has been appointed to look in to this and approve the payments. Payments related to ongoing work on multilateral, Bilateral Projects and rural roads to be released with immediate effect."*

The Minutes of the Cabinet Sub Committee on Economic Affairs Meeting on 10<sup>th</sup> March 2015 states that *"It was explained that Highway Review Committee is finalizing the evaluations and negotiations to make the Contract Price of these contracts to the lowest possible sums by optimizing engineering designs and reducing excessive costs from other areas. Considerable amount have been reduced by the negotiations made so far with OCH III contractor. Possible areas of reduction of costs are explored and*





*negotiations has commenced with the Southern Expressway extension Contractor. Minister of Highways to make an announcement in the Parliament once the cost benefit calculations are completed in these two expressways.*

*It was also explained that both JICA and ADB has shown their interest to fund the Central Expressway (Formally known as Northern Expressway) on concessional terms. Possibilities were explored to obtain funding on concessional terms from other multi-lateral and bi-lateral donor agencies."*

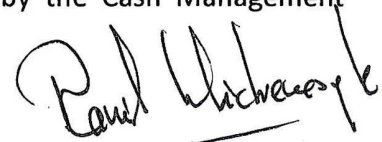
The Ministry of Highways, Higher Education and Investment Promotion confirmed that the cash imprest requirement for February 2015 was Rs.18,445,700,000, and that the allocation available was only Rs.3,000,000. Thus a sum in excess of Rs. 15 billion was required in respect of pending payments due to contractors in respect of highway constructions.

I annex a copy of letter dated 16<sup>th</sup> February 2015 sent by the Secretary, Ministry of Highways, Higher Education and Investment Promotion (including the annexure thereto) as X1.

Additionally there were numerous other urgent funding requirements of the Republic of Sri Lanka, some of which I adverted to in my speech in Parliament reported at column 73 of the Hansard of 17<sup>th</sup> March 2015, the relevant portion of which I annex hereto as X2.

The entirety of the sums due to various other contractors for work done prior to January 2015 was not immediately known by February 2015. Cabinet Papers are presented from time to time with regard to monies due in respect of contractual dues arising from work done during the period 1<sup>st</sup> January 2011 to 31<sup>st</sup> December 2014. In early November this year a Cabinet Paper was presented with regard to the debts of SriLankan Airlines.

I also annex as X3 a copy of the projected Govt. Daily Cash Flow Statement for the period 16<sup>th</sup> February 2015 – 27<sup>th</sup> February 2015 issued by the Cash Management



Division, Department of Treasury Operations. In the last column thereof demonstrates the deficit at the end of 27<sup>th</sup> February 2015.

I annex as **X4(a)-X4(c)** the Minutes of the Meetings of the Cabinet Sub Committee on Economic Affairs of 24<sup>th</sup> February 2015, 3<sup>rd</sup> March 2015 and 10<sup>th</sup> March 2015.

I also annex as **X5** letter dated 13<sup>th</sup> February 2015 sent by the National Water Supply and Drainage Board with regard to its funding requirements, as an example of some of the other liabilities which were known to us at the time.

6. Question number [11] is as follows-

**“[11] Were you aware that Finance Minister Mr. Ravi Karunanayaka and his family were occupying and living a penthouse apartment at Monarch residencies which was paid for by Arjun Aloysius?”**

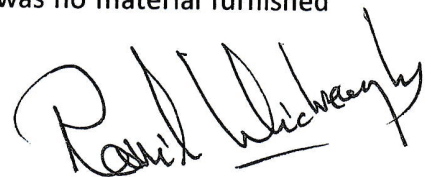
- (a) This issue was brought up in Parliament by Mr. Mahindanada Aluthgamage, MP who made a statement in this regard?**
- (b) Do you acknowledge any wrong doing (the Minister of Finance being the Issuer of Government Securities and Arjuna Aloysius being the owner of a Primary Dealer Company trading in Government Securities) on the part of the minister in this regard?**
- (c) What action did you take in this regard?”**

My reply to questions 11 (a) and (c) is as follows:

I was aware that Mr. Ravi Karunanayake, MP was occupying an apartment at Monarch Residences, as he had informed me that he had shifted pending renovations to his residence.

It is correct that allegations were made by Mr. Mahindananda Aluthgamage, MP.

Mr. Ravi Karunanayake, MP countered by denial and there was no material furnished to substantiate the allegation at that point of time.



However, I inquired from Mr. Ravi Karunanayake, MP whether there was any truth in the allegation made that he was occupying an apartment at Monarch Residences which was paid for by Mr. Aloysius. He informed me that the apartment he was occupying was not paid for by Mr. Aloysius.

My reply to questions 11 (b) is as follows:

I am not privy to all the evidence led in this regard. This matter is now pending before the Commission. Therefore, it would not be appropriate for me to express an opinion in this regard.

7. Question number [14] is as follows-

**“[14] Did Mr. C.P.R. Perera meet you with Mr. Arjuna Mahendran on 01.04.2016 to inform you of concerns relating to treasury bond dealings by EPF?**

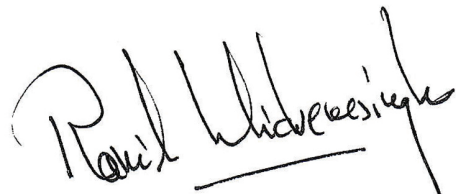
**(a) If the answer to the above is in the affirmative, did Mr. C.P.R. Perera specifically inform you that EPF was buying treasury bonds in the secondary market from Perpetual Treasuries Ltd. instead of buying directly in the primary market?**

**(b) What was your response?”**

My reply is as follows-

The meeting on the 01<sup>st</sup> of April 2016 was not a meeting I had with only Mr C P R Perera and Mr Arjuna Mahendran. It was a meeting to discuss Government Securities the request of which came from Mr C P R Perera. The meeting had a number of officials together with other Ministers.

At that meeting concerns were expressed as to how we can improve the system of marketing of government securities. In the course of the meeting reference was also made to the fact that EPF was purchasing excessive securities from the secondary market and not in the primary transactions. I requested them to go into the matters raised at the meeting.





8. Question number [16] is as follows-

**“[16] Did you or the United National Party or any member of your party receive any donation or contributions from Arjun Aloysius or any Company of the Perpetual Group of Companies or from Free Lanka Trading Company or W.M. Mendis and Company in the years 2014,2015 & 2016 directly or indirectly?”**

My reply is as follows –

Neither I nor the Party received any donations or contributions from Arjun Aloysius or any other entity mentioned therein.

I am unaware whether any other individuals received donations or contributions from the said Aloysius or the specified entities.

9. Question numbers [17], [18] and [19] are as follows -

**“[17] A text message sent on 14.01.2017 by Mr. Aloysius’s Personal Assistant Steve Samuel appears to be reminding Mr. Aloysius of a meeting with you regarding the US Treasury. Was there a meeting scheduled between you and Mr. Aloysius on that date?”**

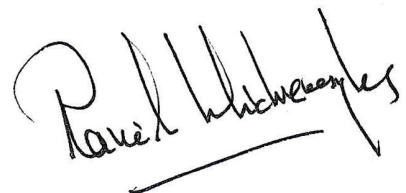
**“[18] If the answer to the above is in the affirmative, did you in fact meet Mr. Aloysius on 14.01.2017 regarding the US Treasury or any other matter?”**

**“[19] Have you and, if so, how many times have you, met Mr. Aloysius regarding PTL business-related matters?”**

My reply is as follows-

There was no meeting scheduled between Mr. Aloysius and myself, nor did I meet Mr Aloysius, on 14 January 2017, regarding the US Treasury or any other matter.

I have met Mr Aloysius regarding PTL business related matters only in connection with what I have previously stated in answer to Question 5 in my Affidavit dated 20<sup>th</sup> October 2017 and in answer to Question 35 herein.



10. Question number [21] is as follows-

**“[21] There is undisputed evidence before the Commission, including that of several witnesses from Perpetual Treasuries Ltd., that Mr. Aloysius continued to run the business activities of this company throughout the tenure of Mr. Mahendran’s Governorship. In this context –**

**(a) Do you consider the assurance given to you Mr. Mahendran as having been false?**

**(b) What action would you recommend against misleading and false statements made to the Prime Minister of the country?”**

My reply is as follows-

I believed that Mr Mahendran acted in good faith.

I am not privy to the evidence led before the Commission, and am unable to comment thereon.

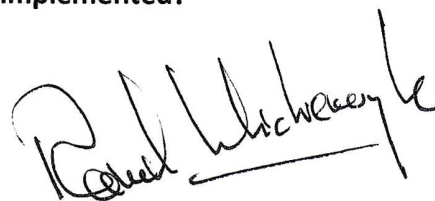
The Commission will have to take and / or recommend action according to the evidence placed before it, and the conclusions it reaches thereon.

11. Question number [24] is as follows-

**“[24] In response to question No. 10, you have stated that you advocated a system where Treasury Bonds were ‘mainly’ accepted through Public Auctions. You have also state that that you insisted that Mr. Arjuna Mahendran should ‘consider’ issuance of bonds through Public Auctions in accordance with the economic policy of the Government and that you expected him to comply with due procedure. In this context –**

**(a) When you said ‘mainly’, did you in fact have in mind a hybrid system?**

**(b) If so, did you satisfy yourself that this was implemented?”**





My reply is as follows-

My primary concern was to ensure that Treasury Bonds are raised mainly on public auctions.

The proportion of public auctions and private placements with captive funds was a matter for the Governor to decide as it involves technical issues which, in my opinion, is a matter to be decided by experts.

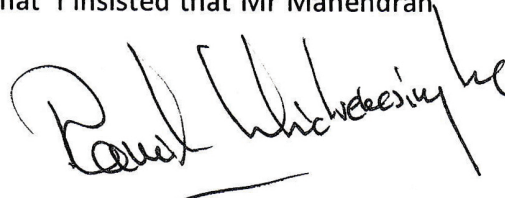
12. Question number [25] is as follows-

**“[25] In response to questions Nos. 10 and 11, you have stated that you expected Mr. Mahendran to follow due procedure to comply with your direction to issue treasury bonds via auctions. In this context –**

- (a) In your opinion, particularly as lawyer yourself, what should have been that ‘due procedure’?**
- (b) Shouldn’t that ‘due procedure’ have included approval of the Monetary Board and a considered analysis backed by data and discussion with all relevant stakeholders?**
- (c) As you were aware of the conflict of interest that Mr. Arjuna Mahendran had, did you not consider it prudent to verify and satisfy yourself that the ‘due procedure’ has been followed?**
- (d) In light of the procedure that was adopted by the present Monetary Board in moving to a new system of issuing treasury bonds, do you not consider the abrupt stopping of Direct Placements by Mr. Arjuna Mahendran to have been irresponsible and reckless, to say the least?”**

My reply is as follows-

25 (a) and (b): As stated previously, my expectation was that the bonds should be raised mainly through public auctions. In my previous response to questions 10 and 11 (in the first set of questions) what I stated was that ‘I insisted that Mr Mahendran



should consider the issuance of Bonds by way of Public Auction in accordance with the economic policy of the government.'

In this regard the due procedure I expected Mr Mahendran to follow was to work within the rules and guidelines set by the Monetary Board and follow best practices relating to the running of a Central Bank. Beyond this, I was not expecting to give any instructions or exercise any supervisory role.

(c): As stated earlier, I had no reason to believe that Mr Arjuna Mahendran would face a conflict of interest, and there was no special reason to satisfy myself that due procedure had been followed.

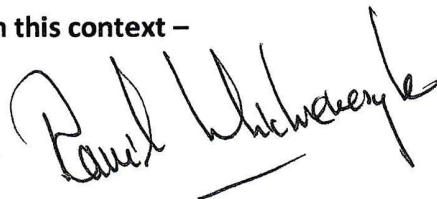
(d): Initially the primary concerns conveyed to Mr Mahendran were the lack of transparency and the failure to take into account the market forces, which arose with regard to private placements. It would appear that Mr Mahendran had secured the stoppage of direct placements to address this issue.

I subsequently became aware that, applying the experience of the Sri Lankan money market, and based on expert advice obtained from experts including the US Treasury, the Monetary Board has reviewed the system and adopted a modified system with regard to the issuance of bonds.

The process is periodically reviewed and thus I do not think that Mr Arjuna Mahendran's abrupt stopping of Direct Placements could be considered irresponsible or reckless, as it was intended to address the lack of transparency associated with the private placement system, and also as the private placement system was not premised on market forces.

13. Question number [26] is as follows-

**"[26] In Response to question No.11, you have stated that the previous government had moved away from a market based system in determining the interest rates in government securities, thereby distorting the market. You also say that there was a loss of investor confidence. In this context –**



- (a) Why have you now permitted a reversal of the fully auction-based system to a hybrid system, notwithstanding those concerns?
- (b) Don't you agree that the present system permits control of the interest rates in phase one of the system?
- (c) Even during the fully auction-based system, wasn't the Central Bank attempting to control interest rates by issuing treasury bills to itself?
- (d) Is your reference to investor confidence accurate, as the outflow of foreign funds continued to take place during the pendency of the fully auction-based system?
- (e) Is your reference to market confidence accurate, as the evidence shows that the EPF and other State-owned funds have simply shifted large volumes of purchases from the primary market to the secondary market?
- (f) When you refer to the market, did you occasion any study with regard to the nature and structure of Sri Lanka's Government Securities market?"

My reply is as follows-

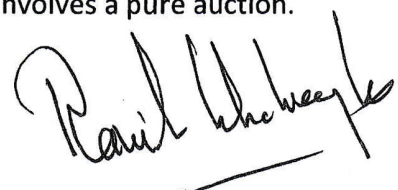
26 (a) There has not been a reversal of the auction system.

The CBSL presented to the Cabinet Committee on Economic Management:

- i. a short to medium Debt Management strategy to address issues of the Public Debt
- ii. Recommendations with regard to liability management of the Public Debt portfolio including a proposal with regard to the enactment of a Liability Management Bill
- iii. Proposals for ensuring Low Inflation in Sri Lanka
- iv. Proposals with regard to a primary issuance system for Treasury Bonds

Following past experience, and expert advise, the current modified auction system was devised by the Monetary Board after reviewing the working of the ongoing Auction based system. I had no role in devising the said system.

In fact the first phase of the current system also involves a pure auction.





On 19<sup>th</sup> July 2017 the Cabinet Committee on Economic Management decided that the new system will also be reviewed in March 2018 and improved if necessary.

26 (b) and (c)

Phase I of the present system is purely auction based and therefore provides the best safeguards against fraudulent manipulation of interest rates by third parties. I am informed that since the introduction of the new system for Bond issuance, each of the three issues raised all the money required, solely through auction as envisaged in the first phase.

However the Central Bank has control over interest rates, to the extent that it decided the volume of bids that should be accepted, and the rates upto which bids should be accepted.

The Central Bank can also control rates by issuing bills to itself.

It is correct that CBSL did absorb the Treasury Bills to contain upward pressure on interest rates when they were not aligned with market fundamentals.

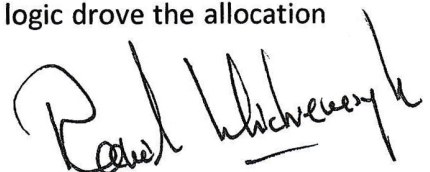
However, I am informed that as the Government's fiscal performance improved, the CBSL has significantly reduced its holding of Treasury Bills.

I am advised that this experience has also been taken into consideration in devising the current bond issuance system.

26 (d) International Capital Flows are influenced by a number of factors such as international trends which are beyond our control.

For instance the United States has embarked on a cycle of raising interest rates. As a result there have been periods when there were large-scale capital outflows from emerging markets as a whole, not only Sri Lanka.

26 (e) For many years investment decisions of the EPF and state owned funds were distorted, as considerations other than commercial logic drove the allocation



of their investment funds. The investment behaviour of these entities cannot therefore be considered an effective barometer of market sentiment.

- 26 (f) This is a matter for the Monetary Board and the management of the CBSL as well as my Advisors.

14. Question number [28] is as follows-

**“[28] In response to question No.12 you have also stated that Mr. Mahendran informed you on the evening of 26.02.2015 that he may be able to raise money far in excess of Rs.1 billion through the 27.02.2015 bond auction. In this context-**

- (a) In the history of treasury bond auctions conducted up to that time, generally only 2-3 times more than the advertised amount had ever been raised at previous treasury bond auctions. So, do you know on what basis he gave you this assurance with such confidence?**
- (b) Did you not raise any concerns about raising volumes far in excess of the amount advertised?**
- (c) Did you not consider the implications on the interest rates?**
- (d) Did you not consider it to be a transparency and due process concern, if an amount far in excess of the advertised amount was to be accepted?**
- (e) Did you question Mr. Mahendran on the tenure of the bond and whether raising large volumes on a long tenor bond was in fact in the best interest of the economy?**
- (f) Did you satisfy yourself whether the Treasury in fact required such large volumes to be raised through this auction or whether some other funding mechanism would be availed of in respect of the RDA's request for funds?**
- (g) There is undisputed evidence that Rs.15 Billion of the Rs.20 Billion worth of bids received at the auction of 27<sup>th</sup> February 2015 had been submitted by Perpetual Treasuries Ltd. (directly and through Bank of Ceylon). In hindsight, do you consider this as a strange coincidence or a deliberate manipulation?”**



My reply is as follows-

28(a) The offer of only Rs. 1 Billion through the 27<sup>th</sup> February 2015 Bond Issue was in my view, and some of the market participants, an extremely low figure.

The CBSL's rationale for offering such a small amount was based on their concerns regarding uncertain market conditions in the wake of the formation of a minority coalition government during the previous months. In this context it was considered prudent to offer a small amount to the market as a means of containing the interest rates borne by the bids. Notwithstanding the Central Bank's opinion, the private sector sentiment (which the Governor and many of us became aware of) was that there was potential for raising a far higher amount.

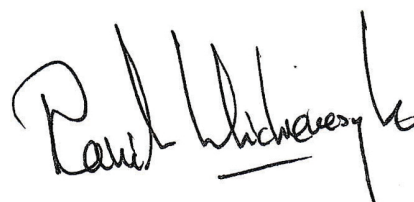
Furthermore, as can be seen from the Bond issuances since 2010 (which is evident from the document issued by the Central Bank and annexed hereto as X6) the market is capable of raising well in excess of Rs. 1 billion.

Hence, it was not an unreasonable expectation that an amount much in excess of Rs. 1 billion could be raised from the market.

In addition, by the time of the Bond Issuance of 27<sup>th</sup> February 2015, there was a very strong case for raising a sum far in excess of Rs.1 billion. It was becoming increasingly apparent that large amounts of money would be necessary to meet the Government's obligations (as I have explained previously) including an extremely large amount of unsettled bills from the period of the previous regime, for which no provisions had been made.

28. (b), (c), (d), (e), (f) - Since I did not concern myself with the day-to-day operations of the CBSL including Bond issuances, these were not matters for me.

28. (g) I am not privy to the evidence before the Commission, or the attendant circumstances. As such I am unable to comment.





15. Question number [29] is as follows-

**“[29] In response to question No.15, you have stated that your officials have traced in your Secretary’s computer, a briefing note forwarded by former Deputy Governor of the Central Bank, Mr. P. Samarasiri and you have produced same annexed to your Affidavit dated 20.10.2017 as X1. In this context –**

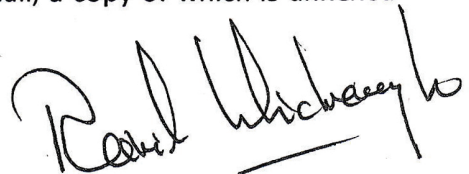
- a) On what date did you receive this briefing note?**
- b) Since the briefing note does not contain a date, author or addressee, was it sent to you with a covering letter?**
- c) Since it appears that what is available in your possession is a soft copy of this briefing note, was such document sent to your office via email by former Deputy Governor Mr. P. Samarasiri?**
- d) If the answer to the above is in the affirmative, are you able to produce that email?**
- e) Did you satisfy yourself of the accuracy of the contents of the briefing note?**
- f) In paragraph 3 of the briefing note, referring to the past practice of the Public Debt Department, it is stated that the ‘underlying assumption was to prevent high yields in the market due to pressure from high government borrowing’. Did you consider prevention of high yields/cost implications to GOSL as a reasonable policy concern?**
- g) Paragraph 5 of the briefing note refers to ‘internal senior management concerns’ and that ‘at the time of the auction, the senior management was considering to impose an interim suspension on direct placements’. Did you satisfy yourself of the accuracy of this statement?**
- h) Are you aware that a member of the Monetary Board at the time has denied any such discussion having taken place?**
- i) Paragraph 6 of the briefing note states that ‘it was an opportune time to stop direct placements...without affecting the long term interest rate structure that prevailed for at the time of the last 30 year bond issue in June 2014’. But, are you not aware that, after the bond auction, the short term interest rates in fact went up abruptly?**



- j) Did you not call for an explanation on causing such volatility in the market?**
- k) Did you consider policy justification for considering the interest rates that prevailed for 30 year bonds as far back as June 2014, when the market rates do not remain static and may well have moved downwards?**
- l) The briefing note refers to the removal of the 3<sup>rd</sup> layer of the policy rates. Are you aware that once again the briefing note is misleading, as the Governor had in fact removed the so called penal interest rate in the morning of the 27<sup>th</sup> February 2015, prior to the auction?**
- m) In light of the evidence that 75% of the bids received at the 27<sup>th</sup> February 2015 bond auction were submitted by or on behalf of Perpetual Treasuries Ltd., would you consider the statement in the briefing note that the auction was in the interest of the majority of the market to be misleading and false?**
- n) There is undisputed evidence before this Commission that many of the primary dealers had placed dummy bids at the 27<sup>th</sup> February 2015 bond auction, as that they did not in fact wish to invest in 30 year bonds. Therefore, isn't the above statement in the briefing note misleading and false?**
- o) For the same reasons, isn't the reference to 'market information gathered from this auction' also misleading and false?**
- p) What action would you recommend in respect of submitting a misleading, inaccurate and false briefing note to the Prime Minister?"**

My reply is as follows-

In response to the questions contained in paragraphs 29(a)-(d), I state that, the briefing note was sent to, and received by, the official email of the Secretary to the Prime Minister ([secpm@pmoffice.gov.lk](mailto:secpm@pmoffice.gov.lk)) from Mr. P. Samarasiri, then Deputy Governor of the Central Bank ([psamara@cbsl.lk](mailto:psamara@cbsl.lk)) on 11<sup>th</sup> March 2015. There was no covering letter, and the note was attached to the email, a copy of which is annexed hereto as **X7**.



In replying to the questions raised at paragraph 29 (e) to (m) at the very outset I wish to state that I am only answerable to Parliament in respect of Ministerial statements made in Parliament.

Without prejudice to this position, I wish to state that whenever I am due to make a statement in a Parliamentary debate I obtain material and briefing notes from the official(s) responsible for the particular subject(s).

However, I do not use the entirety of the matters set out in these material and briefing notes. I only use what I feel is relevant, and which can be dealt with due to constraints of time.

With regard to this briefing note provided by the Chairman of the Tender Board, the only matter that was relevant to what was raised in Parliament was the reference to the events of 27<sup>th</sup> of February 2015 and that the interest rate was 11.73% compared to 11.75% in June 2014. The briefing note was used by me to that limited extent, and only to assist me in my speech in Parliament.

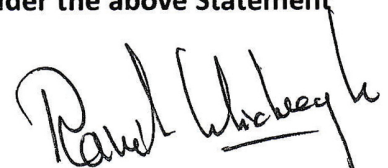
As far as the query in paragraph 29 (n) and (o), I wish to state that I am not aware of the evidence placed before the Commission.

In view of the matters set out above, the query in paragraph 29(p) does not arise.

16. Question number [32] is as follows-

**“[32] In response to question No.20 and the reference in your statement to Parliament on 17<sup>th</sup> March 2015 that ‘the allegation that Mr. Mahendran interfered in the decision of the Tender Board was factually incorrect’, you have stated that you relied on the information provided by Mr. Mahendran and Mr. Samarasiri. In this context –**

**(a) In the context of the evidence given before this Commission by Mr. P. Samarasiri that the decision to accept Rs. 10 Billion at the 27<sup>th</sup> February 2015 was made subsequent to instructions received from Governor Mahendran by telephone, would you now consider the above Statement**



to Parliament as incorrect or misleading, or a partial rendition of the truth?

**(b) As you have stated that neither you nor the Monetary Board were the proper authority to inquire into the issue, and given that you were aware of the lurking potential for conflict of interest, did you not consider it imprudent to deny interference on the part of Mr. Mahendran without first calling for a comprehensive study?"**

My reply is as follows-

I note that the question concerns a statement made by me in Parliament, for which I am solely accountable to Parliament.

Without prejudice to this position, I reiterate that I relied on information provided to me by Mr Mahendran and Mr Samarasiri, and that the statement was made by me *bona fide* and in a responsible manner.

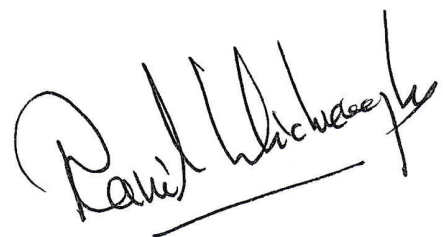
According to the information provided to me, I was informed that the Governor advised that in view of the requirements of the country, bids upto Rs. 10 Billion could be accepted, but had not interfered in the process of the award of bids.

I have already explained that there was no reason for me to suspect that any conflict of interest would arise.

I further state that as I am not privy to the evidence given before the Commission, I am unable to further comment.

17. Question number [33] is as follows-

**"[33] In response to question No.21, you have stated that you have instructed the Attorney General to take steps according to law against any persons who are culpable, irrespective of their status of party affiliation. Can you furnish a copy of these instructions?"**





My reply is as follows-

I am producing herewith the following letters:

- X8** Letter dated 31<sup>st</sup> October 2016 written by the Secretary to the Leader of the House of Parliament to the Hon. Attorney General as directed by me.
- X9** Letter dated 2<sup>nd</sup> November 2016 written by my Secretary to the Hon. Attorney General
- X10** Letter dated 7<sup>th</sup> November 2016 sent by the Attorney General's Department, to my Secretary

In addition, the instructions given to the Attorney General, (who is the chief legal officer of the State, and its primary lawyer) to take steps according to law against any persons who are culpable were given by me orally, as was the established practise.

18. Question number [34] is as follows-

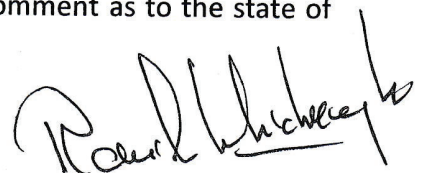
**“[34] In response to question No.26, you have denied that you have provided any Minutes of Monetary Board meetings/papers to Mr. Aloysius and that you resent the insinuation. The text message is self-explanatory in that Mr. Aloysius's Personal Assistant Steve Samuel appears to be reminding Mr. Aloysius to request you or a person named "RK" to get a copy of the said documents. Therefore, why do you think Mr. Aloysius expected that he could make a such a request from you?”**

My reply is as follows-

I reiterate that I did not agree to provide, or provide, copies of minutes of meetings of the Monetary Board / papers to Mr. Aloysius.

I further note that in terms of the question 26 in the first set of questions sent to me, the authenticity of the alleged text message appear to be doubted.

Thus, while I am unaware as to the authenticity of the alleged text message, even assuming same to be genuine, I am unaware and cannot comment as to the state of mind of the sender of the text message, or of Mr. Aloysius.



19. Question number [35] is as follows-

**“[35]Are you aware that the Central Bank has taken regulatory measures against Perpetual Treasuries Ltd. prior to culminating in the suspension of the license?**

**(a) If so, did Mr. Arjun Aloysius speak to you about these measures?**

**(b) If so, when and where did Mr. Aloysius speak to you on this matter?**

**(c) If you had in fact discussed the matter with Mr. Aloysius, do you consider such action as having been appropriate in hindsight?”**

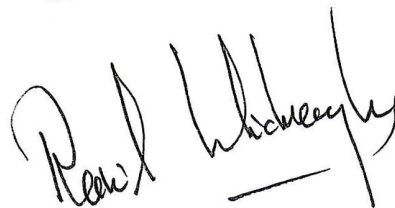
My reply is as follows-

Yes, The Governor of the Central Bank informed that they were inquiring into Perpetual Treasuries and they had enough evidence to proceed against them. I therefore advised him to seek and obtain the advise of the Attorney General.

The Hon. Attorney General had appointed Mr. Milinda Gunetilleke, DSG and Mrs. Shaheeda Barrie, SSC to advise on same. In this regard I annex a copy of letter dated 8<sup>th</sup> November 2016 sent by Secretary, Ministry of National Policies and Economic Affairs to the present Governor of the Central Bank (and copied to *inter alia* the Hon. Attorney General) as X11.

(a) Mr. Aloysius sought an appointment from me in November 2016. Although he did not mention the purpose for which he sought the appointment, I granted the appointment.

(b) I spoke to Mr. Aloysius in November 2016, at my office at Temple Trees. He informed me that he wished to discuss the Central Bank inquiry into his Company. I told him that I had no powers with regard to same, and that he should make representations in writing. He subsequently forwarded written representations to me, which I forwarded to the present Governor of the Central Bank, since he is the authority on the matter.



(c) My discussions were limited to the matters set out in (b), which I do not consider inappropriate.

Affirmed to at Colombo on ]  
this 18<sup>th</sup> day of November 2017 ]



BEFORE ME

COMMISSIONER FOR OATHS

Sumathipala Udugamasuriya  
Attorney-at-Law, Notary Public &  
Commissioner for Oaths.  
162/11, Duwa Road, Beddagana, Pitakotte.  
Tel. 011-2868108



Eighth Parliament of  
the Democratic Socialist Republic of Sri Lanka  
(First Session)

**Parliamentary Series No. 109**

# **Report of the Committee on Public Enterprises**

which functioned as a Special Committee to look into  
financial irregularities which have occurred in issuing  
of Treasury Bonds from February 2015 to May 2016  
by the Central Bank of Sri Lanka

Presented to Parliament by

**Hon. Sunil Handunnetti**

Chairman of the Committee on Public Enterprises

on 28 October 2016



### **Committee on Public Enterprises**

1. Hon. Sunil Handunnetti (Chairman)
2. Hon. Rauff Hakeem
3. Hon. Anura Priyadarshana Yapa
4. Hon. Dayasiri Jayasekara
5. Hon. Lakshman Seneviratne
6. Hon. Ravindra Samaraweera
7. Hon. Sujeewa Senasinghe
8. Hon. Wasantha Aluvihare
9. Hon. Lasantha Alagiyawanna
10. Hon. Dr. Harsha De Silva
11. Hon. Ajith P. Perera
12. Hon. Ranjan Ramanayake
13. Hon. Ashok Abeysinghe
14. Hon. Anura Dissanayake
15. Hon. Chandrasiri Gajadheera
16. Hon. Mahindananda Aluthgamage
17. Hon. Bimal Rathnayake
18. Hon. Weerakumara Dissanayake
19. Hon. Mawai So. Senadhiraja
20. Hon. Abdullah Mahruf
21. Hon. S. Sritharan
22. Hon. M.A. Sumanthiran
23. Hon. Hector Appuhamy
24. Hon. (Dr.) Nalinda Jayathissa
25. Hon. Harshana Rajakaruna
26. Hon. Gnanamuttu Srinesan

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## Report

As the Chairman of the Committee on Public Enterprises of the Eighth Parliament, I wish to present to Parliament today, the Report of the Committee on Public Enterprises which functioned as a Special Committee to look into financial irregularities which have occurred in issuing of Central Bank Bonds from February 2015 to May 2016 by the Central Bank.

The following 15 Members of the Committee agreed to the Report of the Committee in general without the footnotes.

1. Hon. Sunil Handunnetti (Chairman)
2. Hon. Rauff Hakeem
3. Hon. Anura Priyadarshana Yapa
4. Hon. Dayasiri Jayasekara
5. Hon. Lakshman Seneviratne
6. Hon. Lasantha Alagiyawanna
7. Hon. Anura Dissanayake
8. Hon. Chandrasiri Gajadheera
9. Hon. Mahindananda Aluthgamage
10. Hon. Bimal Rathnayake
11. Hon. Weerakumara Dissanayake
12. Hon. S. Sritharan
13. Hon. M.A. Sumanthiran
14. Hon. (Dr.) Nalinda Jayathissa
15. Hon. Gnanamuttu Srinesan

The following 9 Members of the Committee agreed to the Report of the Committee in general without the foot notes.

1. Hon. Ravindra Samaraweera
2. Hon. Sujeewa Senasinghe
3. Hon. Wasantha Aluvihare
4. Hon. Dr. Harsha De Silva
5. Hon. Ajith P. Perera
6. Hon. Ashok Abeysinghe
7. Hon. Abdullah Mahruf
8. Hon. Hector Appuhamy
9. Hon. Harshana Rajakaruna

All the members of the Committee unanimously agreed to the Recommendations given at the end of the Report.

**Sunil Handunnetti**

**Chairman of the Committee on Public Enterprises**

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### Chairman's Note

The task of investigating the issuing of Treasury Bonds by the Central Bank between February 2015 and May 2016 assigned to the Committee on Public Enterprises was a highly complex investigation that carried great responsibility. This investigation was not only a test of subject knowledge of the Members of the Committee, but it was also a test of their conscience.

This bond transaction in the Central Bank is not an average financial transaction similar to those which occur in other public enterprises; this is an issue that has arisen concerning the Central Bank which is the bank of all other banks and is directly responsible to the General Treasury. Furthermore, the loss that the government has incurred or may potentially incur as a result of this transaction is a matter that reaches beyond financial value and affects the continuation of the country's financial management. Additionally, a political dialogue that transcends the boundaries of the Committee was created regarding this bond issue controversy in the country through media. As a result, all members of the Committee representing different political parties rallied around this common objective of formulating a formal report that would enable the revealing of corrupt individuals behind the Central Bank bond issue controversy, bringing them to justice and taking legal action against misappropriation of public funds. It was a challenge that posed many complexities and difficulties. However, it was a priceless political experience.

Sovereignty of the people is vested in Parliament by the people for the purpose of execution. Power of the people assigned to Parliament for the purpose of fiscal control is executed by us through the Committee. This investigation into bond transactions is a test of the power of the people. It is a test of sovereignty. Hence, the task we executed was not that of fulfilling the needs of individuals but an execution of the will of the people. Therefore, after long hours of debate and argument, the conclusion of our investigation is thus presented to Parliament in a manner that is fair by the tax payers. As I directed this investigation, the fact that we are bound only to the obligation of serving justice to sovereignty of people and not to the aspirations of individuals and the extent of power they wield remained a constant in my mind

until the very end of this investigation. I was able to complete this trying endeavor successfully at the last moment. It marks a historic moment in which Parliament emerged victorious from the battle against corruption. This would undoubtedly give strength to all forces against corruption in Sri Lanka.

It is the ultimate responsibility of all Members of Parliament to not allow for the weakening of Parliament's control over public finance. We considered it our first responsibility to investigate whether officers of the Central Bank have acted in a manner that ensures minimum cost and minimum risk for the Central Bank through this bond transaction too. Furthermore, observations and conclusions made by the Auditor General were considered as a basis for this purpose.

I ask the public to carefully scrutinize this report tabled today along with all evidence attached. Then, you will be able to find out who are corrupt and who are protecting the corrupt. Today, we have concluded the investigation into the corrupt bond transaction. My responsibility was to direct and conclude this investigation successfully so that its effect reaches all public enterprises and government financial institutions. Based on my conscience and knowledge in the subject matter, I am satisfied that it has been executed successfully.

I wish to extend my gratitude to all those who expressed views at their discretion, all those who encouraged us providing criticism externally, the Auditor General and his staff who extended their support to complete this process as well as the Hon. Speaker and staff of the Parliament Secretariat.

**Sunil Handunnetti**  
**Chairman of the Committee on Public Enterprises**

## **Report Prepared by the Committee on Public Enterprises on the Issuing of Treasury Bonds by the Central Bank of Sri Lanka within the Period from February 2015 to May 2016**

This report is a summary of the facts revealed in the special audit report prepared by the Auditor General on the issuing of Treasury Bonds by the Central Bank of Sri Lanka during the year 2015 -2016, the answers obtained from the Governor of the Central Bank on that report, the answers given to the questionnaires sent by COPE to the Ministry of Finance and Central Bank of Sri Lanka, the statements made by the officers in the Ministry of Finance and the Ministry of National Policies and Economic Affairs and the oral evidence taken from the officers in the Central Bank by summoning them before the Committee.

### **1 Introduction**

A motion was included in the addendum attached to the Order Book No. 14(1) issued on 08<sup>th</sup> May 2015 as a no date motion signed by a number of Members of Parliament including Prof. G.L. Pieris, M.P., collectively forcing the government to remove the then Governor of the Central Bank Mr. Arjun Mahendran saying that irregularities have taken place in the Sri Lanka Central Bank's issue of a 30 – year bonds on February 27, 2015 incurring a huge financial loss to the government and the country.

Hon. Prime Minister appointed a tri partite Committee consisting of Lawyer Gamini Pitipana, Lawyer Mahesh Kalugampitiya and Lawyer Chandimal Mendis to look into this matter and report.

The tri partite Committee report was tabled by Hon. Lakshman Kiriella on 19<sup>th</sup> May 2015 in Parliament. That report is attached as **Annexure 2** in this report.

Hon. Speaker stated in Parliament on 20 May 2015 that it would be more appropriate to conduct a full investigation about the aforesaid motion included in the Order Paper by a sub Committee of the Committee on Public Enterprises.

Accordingly, the Committee on Public Enterprises of the Seventh Parliament that met on 22<sup>nd</sup> May 2015 appointed the following sub Committee consisting of 13 members from the Committee to conduct a full investigation in this regard.



## Special Sub Committee of Committee on Public Enterprises

- Hon. D.E.W. Gunasekara (Chairman)
- Hon. (Dr.) Rajitha Senarathne
- Hon. Rosy Senanayake
- Hon. Iran Wickramaratne
- Hon. Sujeewa Senasinghe
- Hon. Lasantha Alagiyawanna
- Hon. Arjuna Ranathunga
- Hon. A.D. Susil Premajayantha
- Hon. Weerakumara Dissanayake
- Hon. Sunil Hadunnetti
- Hon. M.T. Hasan Ali
- Hon. (Prof.) Rajiva Wijesinghe
- Hon. E. Saravanapavan

The aforesaid special sub Committee conducted 14 meetings from the day it first met on 22 May 2015 and in 11 meetings out of it oral evidence was taken from 42 witnesses. The list of names of the witnesses is as follows.

The officers summoned before the sub Committee of the Seventh Parliament to get oral evidence in 2015.

<i>Date summoned</i>	<i>Name, Position and Institution</i>
<b>26.05.2015</b>	Dr. R.H.S.Samaratunga, Secretary to the Treasury Dr. M.S.D. Ranasiri, Director General, Treasury Department
<b>29.05.2015</b>	Mr. Ronald C. Perera, PC, Chairman, Bank of Ceylon (BOC) Mr. J.D.K. Dharmapala, Chief Dealer, Bank of Ceylon Mrs. U.L. Muthugala, Actg. Superintendent, Public Debt Dept., Central Bank of Sri Lanka (CBSL) Dr. M.Z.M. Azim, Addl. Superintendent, Public Debt Dept., CBSL
<b>03.06.2015</b>	Mr. H.A.Karunaratne, Secretary, Monetary Board and Asst. Superintendent, CBSL Mr. R.A. Jayatissa, Members of the Monetary Board, CBSL Mrs. Manohari Ramanathan, Members of the Monetary Board, CBSL Mr. D.M. Gunasekera, General Manager, Bank of Ceylon Mr. A.D.B. Talwatte, Counting Managing Partner, Earnest & Young Company Ltd Mr. H.M.A. Jayasinghe, Partner, Earnest & Young Company Ltd Mrs. Y.A. de Silva, Partner, Earnest & Young Company Ltd Mr. W.W.D. Pradeep L. Perera, Senior Manager, Earnest & Young Company Ltd

Mr. P.G. Tissere, Former Asst. General Manager, Bank of Ceylon

**04.06.2015**

Mr. Aswin de Silva, Chairman, National Savings Bank (NSB)

Mr. S.D.N. Perera, CEO/General Manager, NSB

Mr. P.A. Lionel, Head of Treasury, NSB

Mr. D.L.P. Abeysinghe, Dealer, NSB

Mrs. B.P.J. Gunasekara, Deputy General Manager/CEO, NSB Fund Management Ltd.

Mr. Nihal Jayamanne, P.C., Chairman, Seylan Bank

Mr. Somadasa Palihawadana, Chief Dealer, Seylan Bank

Mr. N. Wasantha Kumar, General Manager, People's Bank

Mr. Clive Fonseka, Head of Treasury, People's Bank

Mr. R.A.A. Jayalath, Superintendent, Employees Provident Fund

Mr. M.S.K. Dharmawardena, Addl. Superintendent, Employees Provident Fund

Mr. J.D.S.J. Nanayakkara, Deputy Superintendent, Employees Provident Fund

Mr. S.Pathumanapan, Asst. Superintendent, Employees Provident Fund

Mr. Kasun Palisena, Chief Executive Officer, Perpetual Treasuries (Pvt) Ltd

Mr. Harin Nishantha, Marketing Manager, Perpetual Treasuries (Pvt) Ltd

**05.06.2015**

Mr. B.D.W.A. Silva, Deputy Governor, CBSL

Mr. P. Samarasiri, Deputy Governor, CBSL

**09.06.2015**

Mrs. C.M.D.N.K. Seneviratne, Superintendent, Public Debt Department, CBSL

Dr. M.Z.M. Azim, Addl. Superintendent, Public Debt Dept., CBSL

**10.06.2015**

Mr. D.L.P. Abeysinghe, Executive Officer, Government Securities Dealing, NSB

Mr. W.M.R.B. Weerakoon, Senior Manager (Dealing), NSB Fund Management Co. Ltd.

Mr. Kavinda Mewan Gunawardena, Senior Trade Rates, HSBC

Mr. D.N.R. Siriwardena, Registrar General of Companies

**11.06.2015**

Mr. Ajith Nivard Cabral, Former Governor, CBSL

**17.06.2015**

Mr. J.K.D. Dharmapala, Former Chief Dealer, Bank of Ceylon

Mr. N.W.G.R.D. Nanayakkara, Director, Financial Sector Research, CBSL

Mrs. L.S. Fernando, Manager, Public Debt Department, CBSL

Dr. P.N. Weerasinghe, Deputy Governor, CBSL

Mr. D.N.R. Siriwardena, Registrar General of Companies

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Mr. Arjun Joseph Aloysius, Director, Free Lanka Trading Co. Pvt. Ltd.

**18.06.2015**

Mr. Arjun Mahendran, Governor, CBSL

Mrs. M.S.M.P. Fernando, Senior Manager, Public Debt Department, CBSL

**23.06.2015**

Mr. Arjun Mahendran, Governor, CBSL

**25.06.2015**

The Committee deliberated

**26.06.2015**

The Committee deliberated

After that the Committee considered the drafted report prepared with the support and participation of the Auditor General and other officers after taking into consideration the evidence submitted in the 11 meetings and a number of other related documents but due to the difficulties in arriving into a consensus and dissolution of Parliament on 26.06.2015 that report couldn't be submitted.

After that the Eighth Parliament that elected on 01.09.2015 discussed this matter and agreed to conduct the investigation again by the Committee on Public Enterprises of the Eighth Parliament.

#### **Committee on Public Enterprises of the Eighth Parliament**

1. Hon. Sunil Handunnetti (Chairman)
2. Hon. Rauff Hakeem
3. Hon. Anura Priyadarshana Yapa
4. Hon. Dayasiri Jayasekara
5. Hon. Lakshman Seneviratne
6. Hon. Ravindra Samaraweera
7. Hon. Sujeewa Senasinghe (*Appointed on 7 July 2016*)
8. Hon. Wasantha Aluvihare
9. Hon. Lasantha Alagiyawanna
10. Hon. Dr. Harsha De Silva
11. Hon. Ajith P. Perera
12. Hon. Ranjan Ramanayake
13. Hon. Ashok Abeysinghe
14. Hon. Anura Dissanayake
15. Hon. Chandrasiri Gajadheera
16. Hon. Mahindananda Aluthgamage (*Appointed on 17 May 2016*)
17. Hon. Bimal Rathnayake
18. Hon. Weerakumara Dissanayake

19. Hon. Mawai S. Senadhiraja
20. Hon. Abdullah Mahruf (*Appointed on 7 April 2016*)
21. Hon. S. Sritharan
22. Hon. M.A. Sumanthiran
23. Hon. Hector Appuhamy
24. Hon. Velu Kumar (*Resigned on 05 July 2016*)
25. Hon. (Dr.) Nalinda Jayathissa
26. Hon. Prasanna Ranatunga (*Appointed on 7 April 2016 and resigned on 17 May 2016*)
27. Hon. Harshana Rajakaruna
28. Hon. Gnanamuttu Srinesan

Accordingly, it was passed in the meeting held on 06.05.2016 that the Committee on Public Enterprises should look into the Central Bank bond issue that took place in the first quarter of the year 2015 and every other matters related to it and a report should be submitted to the Parliament in this regard.

Accordingly, Auditor General studied the facts and investigated in this regard based on the advice given by the Committee and submitted a report to the Hon. Speaker on 29.06.2016 including 'sensitive' facts from the Auditor General and the report without the 'sensitive' facts was submitted to the Committee on the same day. Hon. Speaker has handed over the full report with those sensitive facts to the Committee on 23.09.2016 after having a lengthy study. The complete report is attached to this report as a separate volume.

Mr. Arjuna Mahendran, the Governor of the Central Bank during the period of controversial bond issue of Central Bank was not re- appointed to the post due to the expiration of the term of office and Dr. Indrajith Kumaraswami was appointed as the Governor of the Central Bank of Sri Lanka.

The Committee on Public Enterprises in the Eighth Parliament discussed this at length and further oral evidence were taken from 23 witnesses including the Governor of the Central Bank. The list of names of the witnesses who gave evidence before the Committee on Public Enterprises are as follows:-

<b>Date</b>	<b>Name of the Officers summoned</b>
<b>2016-06-08</b>	Mr. M. I. M. Rafeek, Secretary, Ministry of National Policies & Economic Affairs Mr. U. G. Rathnasiri, Additional Secretary, M/ National Policies & Economic Affairs Mr. S. M. Chandrapala, Chief Finance Officer, M/ National Policies & Economic Affairs Mr. W. M. R. Dissanayake, Chief Accountant, M/ National Policies & Economic Affairs Mrs. P. A. Kanthi, Chief Audit Officer, M/ National Policies & Economic Affairs Dr. R. H. S. Samarathunga, Seretary, Ministry of Finance Mr. M. S. D. Ranasiri, Director General, Ministry of Finance Mr. Arjun Mahendran, Governor, Central Bank of Sri Lanka (CBSL) Dr. P. N. Weerasinghe, Deputy Governor, CBSL Mr. P. Samarasiri, Deputy Governor, CBSL Mr. S. Lankathilake, Deputy Governor, CBSL Mr. T.H.B. Sarathchandra, Superintendent of Public Debt, CBSL
<b>2016-06-29</b>	The Committee deliberated. Discussion on the special audit report on Treasury Bonds submitted to the Committee by the Auditor General
<b>2016-07-07</b>	Dr. R. H. S. Samarathunga, Secretary to the Treasury Mr. M. I. M. Rafeek, Secretary, Ministry of National Policies & Economic Affairs Mr. U. G. Rathnasiri, Addl. Secretary, Ministry of National Policies & Economic Affairs Mr. S. M. Chandrapala, Chief Finance Officer, M/National Policies & Economic Affairs Mr. W. M. R. Dissanayake, Chief Accountant, M/National Policies & Economic Affairs Mrs. P. A. Kanthi, Chief Audit Officer, M/National Policies & Economic Affairs Mr. M. S. D. Ranasiri, Director General, M/National Policies & Economic Affairs Dr. Indrajith Kumaraswami, Governor, Central Bank of Sri Lanka Mrs. Manohari, Ramanathan, Appointed member, Monetary Board, CBSL Dr. P. N. Weerasinghe, Deputy Governor, CBSL- Mr. P. Samarasiri, Deputy Governor, CBSL Mr. S. Lankathilake, Deputy Governor, CBSL Mr. S.S. Rathnayake, Assistant Governor, CBSL Mr. K.D. Ranasinghe, Assistant Governor, CBSL Mr. R.A.A. Jayalath, Assistant Governor, CBSL Mr. P.W.D.N.R. Rodrigo, Director / Domestic Operations, CBSL Mrs. C.M.D.N.K. Senevirathne, Director / Information Technology, CBSL Mr. T.H.B. Sarathchandra, Superintendent of Public Debt Department, CBSL Mr. K.M.M. Siriwardena, Assistant Governor & Director of Economic Research, CBSL Mrs. U.L. Muthugala, Additional Superintendent, Public Debt Department, CBSL Dr. M. Z.M. Azeem, Additional Director, Statistics, CBSL: Mr. K. G. P. Siri Kumara, Deputy Director, Legal & Complaints, CBSL
<b>2016-08-12</b>	Dr.R.H.S. Samarathunga, Secretary to the Treasury, Mr. Shantha Bandara, State Secretary, Ministry of National Policies and Economic Affairs Mr. U.G. Rathnasiri, Additional Secretary, M/ National Policies and Economic Affairs Mr. S.M. Chandrapala, Chief Financial Officer, M/ National Policies and Economic Affairs

Mr. W.M.R. Dissanayake, Chief Accountant, M/National Policies and Economic Affairs  
Ms. P.A. Kanthi, Chief Internal Auditor, M/ National Policies and Economic Affairs  
Mr. Indrajith Coomaraswami, Governor, Central Bank of Sri Lanka  
Mrs. Manohari Ramanathan, Appointed member, Monetary Board, CBSL  
Mr. C.P.R. Perera, Appointed member, Monetary Board, CBSL  
Dr. P.N. Weerasinghe, Deputy Governor, CBSL  
Mr. P. Samarasiri, Deputy Governor, CBSL  
Mr. S. Lankathilake, Deputy Governor, CBSL  
Mr. C.J.P. Siriwardena, Assistant Governor, CBSL  
Mr. S.S. Rathnayake, Assistant Governor, CBSL  
Mr. K.D. Ranasinghe, Assistant Governor, CBSL  
Mr. R.A.A. Jayalath, Assistant Governor, CBSL  
Mr. K.M.M. Siriwardena, Assistant Governor & Director of Economic Research, CBSL  
Mr. P.W.D.N.R. Rodrigo, Director / Domestic Operations, CBSL  
Mrs. C.M.D.N.K. Senevirathne, Director / Information Technology, CBSL  
Mr. N.W.G.R.D. Nanayakkara, Director / Financial Sector Research, CBSL  
Mr. T.H.B. Sarathchandra, Superintendent of Public Debt, CBSL  
Mrs. K.N.N.M. Bandara, Superintendent of EPF, CBSL  
Mrs. U.L Muthugala, Additional Superintendent of Public debt, CBSL  
Dr. M.Z.M. Azim, Additional director/ statistics, CBSL  
Mr. K.G.P. Sirikumara, Deputy Governor /Legal and contliantee, CBSL  
Mr. S. Obeysekera, Senior Manager, Public Debt Department, CBSL  
Mr. S. Pathumanapan, Senior Manager, Public Debt Department, CBSL  
Mr. W.G.R.Harshappriya, Senior Assistant Superintendent, CBSL

**2016-08-23**

The Committee deliberated. To discuss about the proposed procedure to prepare the COPE report on the Central Bank Bonds.

**2016-09-08**

Dr. Indrajith Kumaraswami, Governor, Central Bank of Sri Lanka

**2016-09-23**

The Committee deliberated. To discuss about the information report prepared by the COPE.

**2016-10-05**

The Committee deliberated. To discuss about the information report prepared by the COPE.

**2016-10-20**

The Committee deliberated - to consider and approve the final Draft Report

**2016-10-21**

The Committee deliberated - to consider and approve the final Draft Report

**2016-10-24**

The Committee deliberated - to consider and approve the final Draft Report

**2016-10-26**

The Committee deliberated - to consider and approve the final Draft Report

Documents which were used to prepare this report and the verbatim reports containing the oral evidence elicited from the officers who were summoned before the Committee in relation to the issue concentrated to have been presented along with this report as annexures, as follows.

1. **Annexure 01** - Report incorporating the updates of the details uncovered by the Committee on Public Enterprises and to examine the accuracy of each passage of the Auditor General upto 23<sup>rd</sup> September 2016 form the issue of the Special and it report on 29<sup>th</sup> June 2016 in relation to the issue of treasury bonds by the Public Debt Department of the Central Bank of Sri Lanka from February 2015 to May 2016. (From page ..... to... page.....)
2. **Annexure 02** - Report of the three Member Committee appointed by the Hon. Prime Minister to inquire into and report on the issue of Treasury bonds by the central bank.
3. **Annexure 03** - Presentation made by the Auditor General to the Committee on Public Enterprises on the issue of Treasury bonds by the central bank, on 07.05.2016. (From page ..... to... page.....)
4. **Annexure 04** - Oral evidence provided by the offices of the Central Bank who were summoned for the Committee on 07<sup>th</sup> July 2016 (upto page.....)
5. **Annexure 05** – Oral evidence provided by the officers of the Central Bank who were summoned before the Committee on 12<sup>th</sup> August 2016. (upto page.....)
6. **Annexure 06** – Oral evidence provided by the officers of the Central Bank who were summoned before the Committee on 8<sup>th</sup> September 2016. (upto page.....)
7. **Annexure 07** – Papers of the Monetary Board and the minutes of monetary Board of the Central Bank of 7<sup>th</sup> January 2008 and 07<sup>th</sup> October 2008. (upto page.....)
8. **Annexure 08** – Extracts of the operational manual of the Public Debt Management Department of the Central Bank. (upto page.....)
9. **Annexure 09** – Proposed future plan of action for presenting the report of the Committee on Public Enterprises on the issue of Treasure Bonds by the Central Bank in 2015 and 2015, to Parliament. (From page ..... to... page.....)
10. **Annexure 10** – Comments of the Auditor General to the reply sent by the governor of the central bank to the special report of the Auditor General on the issue of Treasury Bonds by the public debt department of the Central Bank of Sri Lanka from February 2015 to May 2016. (upto page.....)
11. **Annexure 11** – Questionnaire sent to the Central Bank by the Committee and the replies to it. (upto page.....)
12. **Annexure 12** – Questionnaire sent to the Ministry of Finance by the Committee and the replies to it. (upto page.....)



13. **Annexure 13** – Oral evidence provided by the officers of the Central Bank who were summoned before the Committee on 08.06.2016. (upto page.....)
14. **Annexure 14** – Verbatim report of the meeting of the Committee held on 23.09.2016. (upto page.....)
15. **Annexure 15** – Verbatim report of the meeting of the Committee held on 05.10.2016. (upto page.....)
16. **Annexure 16** – First draft report of the Committee on Public Enterprises on the issue of Treasury Bonds by the Central Bank of Sri Lanka from February 2015 to May 2016 which was presented to the Committee on 23<sup>rd</sup> September 2016. (page.....)
17. **Annexure 17** – Financial statement of the Perpetual Treasuries Company that appeared in the Sunday observer of 25<sup>th</sup> September 2016.
18. **Annexure 18** – Audit report presented by the Earnest and Young company on the involvement of the central bank for purchasing central Bank bonds on behalf of M/s Perpetual Treasuries Ltd.
19. **Annexure 19** – Verbatim report dated 20.10.2016
20. **Annexure 20** – Verbatim report dated 21.10.2016
21. **Annexure 21** – Verbatim report dated 24.10.2016
22. **Annexure 22** – Verbatim report dated 26.10.2016
23. **Annexure 23** – To get a clarification on monetary board decision of the Central Bank for 2008/basic features of the bonds appeared on the website of the Central Bank
24. **Annexure 24** – Report on bonds of 27 February 2015
25. **Annexure 25** – Evidence of Dr. Azim (Verbatim Report)

## **2 Report of the three member Committee appointed by the Hon. Prime Minister to inquire into the issue of Treasury Bonds – (Annexure 2)**

The Hon. Prime Minister who also holds the portfolios of policy planning, Economic Affairs, Child and Youth Affairs and Cultural Affairs appointed three-member Committee headed by Mr. Gamini Pitipanam Attorney-at-Law with Mahesh Kalugampitiya and Chandimal Mendis, Attorneys-at-Law being the other two members to inquire into and report on the factor that led to the announcement of the issue of Treasury bonds worth of Rs. 1 billion by the Public Debt Department of the Central Bank and the series of events and statistics relating to that and to monitor and inquire into the financial demand of the country from 01<sup>st</sup> of January 2012

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to the date of the inquiry, issue of treasury bonds, auctioning and so on. The report prepared by the said three member Committee was tabled in the House by Hon. Lakshman Kiriella on 19.05.2015 (**Annexure 2**)

The following matters had been specifically highlighted by the inquiry conducted by the aforesaid three member Committee

- The need to conduct a comprehensive audit by a proper state Authority as purchasing 50% of approved bids at this juncture is an unusual phenomenon given the bidding pattern of Perpetual Treasuries.
- The board of directors of the Bank of Ceylon should conduct a forensic audit of the activities taking place at the dealer room of the Bank of Ceylon.
- A formal mechanism to undertake proper monitoring of activities taking place among the primary dealers over functions of the public debt Department of the Central Bank should be established without delay.
- It has been observed by the Committee that documents containing sensitive information of the central bank has become public according to the views expressed by many primary dealers and a full inquiry must be conducted by a proper authority to ascertain the truth of the above proposition and to inquire into the activities of the officers of the Central Bank.

The three-member Committee headed by Attorney-at-Law Gamini Pitipana, through its report has held that there is no obstacle for the government, Parliament or any other organization working for public interest to enquire whether the country has sustained any loss owing to the above processed while pointing out the fact that it is prudent to observe the digital Foot prints of the officers of the central bank to ascertain whether the Central Bank of Sri Lanka has fulfilled the aspirations of the people of Sri Lanka with regard to fiscal control and integrity.

Based on the above facts, the three-member Committee appointed by the Hon. Prime minister and the Minister of policy planning and Economic Affairs has concluded that the full-scale supervision must be conducted by a proper State Authority on the bond issue of the Central Bank of Sri Lanka.

### **3 Introducing the process of issuing of treasury bonds by the Central Bank of Sri Lanka.**

The Central Bank of Sri Lanka established with the main objective of maintaining the economic and prices stability is govern by the governor of the Central Bank who is also the head of the monetary board of the Central Bank. (see Annex vii of **Annexure 1** - page 67) in terms of section 19 (1) of the Finance Act, the governor of Central Bank is also the chief executive officer of the Central Bank of Sri Lanka.

The Central Bank of Sri Lanka bears the responsibility of issuing treasury Securities known as treasury bills and treasury Bonds in order to meet the financial requirement of the country for the coming months on the installation of the treasury operations Department of Central Bank (see Annex ix of **Annexure 1** - page 69).

Treasury Bonds are two types; Treasury bonds that mature within a period of less than a year and Treasury Bonds that mature after a year. The face value of a bond is Rs 100/=.

The Central Bank raises money for the government and in that Exercise Act as a representative of the government in terms of section 106(1) of finance Act. (See Annex x of Annexure 1 - page 70)

By the end of 2015, 16 qualified institutions had been registered to purchase these Securities while one institution had withdrawn in 2016. (See Annex vi of Annexure 1 - page 65).

These includes both government and private institutions.

They are known as Primary Dealers further employees Provident fund too has been permitted to purchase treasury Bonds in the primary Market.

#### **3.1 Methods employed by Central Bank of Sri Lanka for issuing bonds**

Central Bank of Sri Lanka has employed two methods up to 27 February 2015 for the issue of treasury bonds.

##### **3.1.1 First method (Auction Method)**

Calling quotations from the aforesaid registered primary dealers through a public notice on the issue of treasury bonds and meeting the fund requirements through the auctioning of bonds accordingly.

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### **3.1.2 Second method (Direct Method/ Private Placements)**

The second method is the direct issue of securities to primary dealers which is also known as private issue. Under the second method, opportunity is afforded to primary dealers to purchase bonds on the weighted average yield rate declared by the Public Debt Department of Central Bank.

The weighted average yield rate is calculated using two methods. One of them is to afford the opportunity to primary dealers to purchase bonds on the basis of yield rates fixed for bonds with a similar maturity period at the auction conducted during the immediately preceding period. The second is to recalculate the yield rates on the basis of bond yield rates with similar maturity period in the secondary market.

The direct issue method is open on every working day except for the day of the auction and the primary dealers willing to purchase bonds could apply to purchase bonds available for sale at yield rates predetermined by the Public Debt Department. The process adopted by the Public Debt Department in the issue of treasury bonds is set out in the **Operations Manual of the Public Debt Department**.

### **3.2 Issue of bonds and the impact of Interest rate on financial market**

Treasury bonds with varying maturity periods are issued at coupon rates/interest rates. The government makes interest payments biannually as per the face value of the bonds thus issued (*See Annex xi of Annexure 1 - page 71*). At bond auctions, bids are submitted by dealers at different prices based on interest rates declared by the Central Bank. Such bids are submitted at premium value, i.e. a price above the face value, par value, i.e. a price equal to the face value and discount value, i.e. a price lower than the face value. If the dealers applied for premium value, the interest rate too takes a higher value. Accordingly, when there is a yield rate above the interest rate, bonds are issued at a discount value lower than the face value and when the interest rate and the yield rate are similar, bonds are issued at face value and when the interest rate and the yield rate is below the interest rate, bonds are issued at a price lower than the face value. Accordingly, by issuing bonds at a yield rate lower than the interest rate, a premium price is received and the government gains an additional financial benefit. Conversely, the government is in for a financial loss by issuing bonds at a yield rate above the interest rate, i.e. discount

rate. By issuing bonds at a yield rate equal to the interest rate, the government does not incur any financial loss or gain.

***Hon. (Dr.) Harsha De Silva, Hon Ajith P. Perera, Hon. Ashok Abeysinghe, Hon. Sujeewa Senasinghe, Hon. Hector Appuhamy, Hon. Wasantha Aluvihare and Hon. Harshana Rajakaruna stated that they were not in agreement with paragraph 3.2 and instead agreed upon the following amendment to the paragraph.***

They stated that they could not concur with the assertion that “by issuing bonds at discount rate that the Government incur a financial loss”.

In general, the statement to the effect that the government incurs a loss on all occasions through the issue of bond at a discount price cannot be agreed upon. The reason for this is that a bond of less than one year is a bill (a Treasury Bill) can never be sold at face value. If an interest or coupon is attached to a bond with more than one year maturity, it can only be sold at a face value of Rupees One Hundred only on one occasion, i.e. only if the interest received for a bond is equal to the interest received for it during the same period of time in the secondary market. If there are previously issued unsold bonds in the market similar to this bond and if the yield rate that such bonds receive in the secondary market is higher than these bonds, the bond can only be sold at a discount. Whether the face value is above or below hundred is determined by the interest rate relevant to this bond and the yield rate for similar bonds in the market.

**4. Policies, action and legal background adhered to by the Central Bank in respect of issuing treasury bonds**

**4.1 Documents on which the Central Bank base its policy whether to issue bonds through auction method or direct method**

The Central Bank has first issued bonds in the year 1997.

The Auditor General's report on the issue of treasury bonds in 2015-2016 points out that as per board paper MB/PD/05/18/97 (See Annex xii of **Annexure 1** – Page 72) of the monetary board of the Central Bank a decision has been taken to issue treasury bonds to primary dealers through auctions from March 1997 and to use the Employees' Provident Fund when sufficient capital is not available in the market or when there is an unlimited increase in the interest rate.

**4.1.1** The report of the Auditor General further notes that through monetary Board Paper No MB/PD/1/26/2008 (07.01.2008) (**Annexure 07**), it has been decided in the year 2008 to meet the funding requirements through the direct method<sup>1</sup> and subsequently through the Monetary Board Paper No. MB/PD/25/20/2008 (07.10.2008) (**Annexure 07**) it has been recommended to establish market liquidity by issuing bonds with interest rates 0.05 percent higher than the prevailing interest rates in the secondary market to the Employees' Provident Fund.<sup>2</sup>

**4.1.2** The Committee queried the Central Bank officials as to how the term 'Other Captive Sources' came to be included in the decision of the Monetary Board Paper No. MB/PD/25/20/2008 (07.10.2008) and it was pointed out that it was decided that not only the Employees' Provident Fund but other sources (Other Captive Sources) which could be utilized to meet the funding requirements of the country during the relevant period too should be taken into account.<sup>3</sup>

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<sup>1</sup> For a period of 3 months

<sup>2</sup> It has been mentioned in the Monetary Board Paper No. MB/PD/01/26/2008 that *"The Monetary Board Approval is sought for the proposed rate structure to be used for direct placements of treasury bonds and rupee loans in respect of captive investors such as EPF, NSB, and ETF during January – April 2008."*

It has been mentioned in the Monetary Board Paper No. MB/PD/11/16/2008 of 02.05.2008 that *"The Monetary Board Approval is sought for the proposed rate structure to be used for direct placements of treasury bonds in respect of captive type large investors such as EPF, NSB, and ETF during May to December 2008."*

The letter faxed by the Director of the Public Debt Department to the Committee held on 24<sup>th</sup> October 2016 has shown that the approval of the monetary board for the interest rates paid to issue treasury bonds for the captive sources as mentioned above has been given only for the period of May to December 2008. That letter has further shown that the time has not extended after December 2008.

*(Annexure 23 - The letter dated 24<sup>th</sup> October 2016 signed by a Superintendent of the Domestic Debt Management Department.)*

<sup>3</sup> It has been stated that *"Except for the EPF, all other captive sources need to come to the auction through a primary dealer"* and it is not stated the primary dealers have the permission for their transactions through direct placements.



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#### 4.2 The use of the Operations Manual of Public Debt Department of the Central Bank in respect of the implementation of the policy decisions for the issue of bonds by the Central bank of Sri Lanka <sup>4</sup>

The officials of the Central Bank pointed out that this manual is studied by the Operations Manual of Public Debt Department of the Central Bank in the implementation of policy decisions in respect of the issue of treasury bonds and added that it was last updated on 31 July 2013. <sup>5</sup> The officials of the Central Bank further noted that this operations manual was either revised or updated after having conveyed the policy decisions relevant to the activities of the Central Bank approved by the Monetary Board of the Central Bank to the Department of Public Debt Management.

The relevant extracts of the operations manual applied in connection with the policy decision to decide whether to adopt the direct method or the auction method in issuing bonds by the Central Bank is attached hereto as **Annexure 08**.

However, upon a query made by the Committee, the officials of the Central Bank admitted that the operations manual had hitherto not been updated as per the Monetary Board paper dated 07 October 2008. However, the Governor of the Central Bank, in response to a question posed by the Committee, stated that he was of the opinion that the said decision of the Monetary Board was covered by the applicable sections of the Operations Manual.

The officials of the Central Bank of Sri Lanka were questioned by the Committee about the manner in which the Direct Placement method and the Auction method in issuing bonds given in B(i) on page 8 of this manual and it was pointed out by the officials of the Central Bank that “as much as possible through auctions” therein decided the volume of bonds to be issued through the auction method and that it was decided based on cost and risk. Further clarifying the point, the officials of the Central Bank mentioned that cost and risk were determined as per the guideline mentioned in Medium Term Debt Management Strategy of the borrowing programme of the Department of Public Debt Management of the Central Bank. It was further pointed out by the officials of the Central Bank that despite the mentioning of:

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<sup>4</sup> The procedure with regard to the issuing of bonds in the page 8 under B1 of the Operations Manual of the Local Debt Management Department.

*“Front Office has to make arrangements to meet financing needs as much as possible through auctions. The balance fund requirements of the government as indicated in the approved Borrowing program may be arranged through private placements with PDs.”* There was no evidence that the approval of the Monetary Board was given to that.

<sup>5</sup> It was observed that it has not been timely updated accordingly.

- a. Auctions
- b. Private Placements
- c. Rupee Loans

as methods of financing on page 3 of the Operations Manual of Public Debt Department, there was no order specifying the adoption of auction method firstly, private placements secondly and rupee loans thirdly to be followed.

Further, citing *“The front office of the PDD is mainly responsible for mobilizing required funds for the government at the lowest possible cost with a reasonable degree of risk through implementation of domestic borrowing programme approved by the Monetary Board”*, it was pointed out by those officials that the fund requirement of the government had to be financed at the minimum cost. It was also pointed out that the fund requirement had to be financed without causing any disadvantage to the government and the process of the Central Bank.<sup>6</sup>

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<sup>6</sup> As per the methodology adopted by the Monetary Board and as it is mentioned in the Operational Manual a major portion of the requirement of the funds shall be fulfilled through Auction System whereas the rest shall be obtained through Private Placement System. However, the Auditor General mentions that Private Placement System has been considered as the correct system according to the facts available at that time and it seems that Private Placement System has been cited as the accepted system in the report submitted by Auditor General to this inquiry.

As per Monetary Board Papers Nos. MB/PD/01/26/2008 and MB/PD/11/16/2008, Private Placement System is allowed for a period of 12 months in an emergency (initially for 4 months and thereafter for 8 months). These two Monetary Board Papers have given permission thus protecting the rights of EPF, ETF, NSB owners and also considering the inflation. It had been specifically mentioned that Direct Placements (Captive Sources) shall be given to the Government or the institutions like EPF, ETF, NSB which are coming under the purview of the government. It is not clearly mentioned in any document whether permission has been granted to provide the aforesaid private placements to primary dealers.

Therefore, whether opportunity has been provided to private dealers during the period from 2008 up to 2015, has to be examined.

### 4.3 Analysis of manner in which the fund requirement of the government was met by issuing bonds from January 2014 to May 2016

An analysis of the manner in which the fund requirement of the government was met by issuing bonds using the auction method and the direct placement method from January 2014 up to May 2016 is presented by the Auditor General in relation to Central Bank bonds 2015-2016 as follows.

Year and Month	Method of issuing bonds and value			As a percentage of value issued	
	Auction Rs. Billion	Direct Placement Rs. Billion	Total Rs. Billion	Auction %	Direct Placement %
January 2014	5.500	32.718	38.218	14	86
February 2014	3.050	80.088	83.138	4	96
March 2014	5.000	130.117	135.117	4	96
April 2014	-	120.373	120.373	0	100
May 2014	5.950	62.745	68.695	9	91
June 2014	-	126.210	126.210	0	100
July 2014	5.300	109.483	114.783	5	95
August 2014	-	44.230	44.230	0	100
September 2014	2.950	72.458	75.408	4	96
October 2014	-	22.617	22.617	0	100
November 2014	-	13.788	13.788	0	100
December 2014	4.000	18.148	22.148	18	82
January 2015	-	69.923	69.923	0	100
February 2015	10.058	23.524	33.582	30	70
March 2015	171.659	14.144	185.803	92	8
April 2015	44.306	-	44.306	100	0
May 2015	35.730	-	35.730	100	0
June 2015	82.900	-	82.900	100	0
July 2015	99.575	-	99.575	100	0
August 2015	100.578	-	100.578	100	0
September 2015	57.576	-	57.576	100	0
October 2015	55.811	-	55.811	100	0
November 2015	20.594	-	20.594	100	0
December 2015	29.545	-	29.545	100	0
January 2016	61.119	-	61.119	100	0
February 2016	38.959	-	38.959	100	0
March 2016	135.667	-	135.667	100	0
April 2016	30.440	-	30.440	100	0
May 2016	114.335	-	114.335	100	0

According to the above table it is observed that months in which only the direct placement method was used, months in which only the auction method was used and months in which both these methods were used had existed within the 15 month period from January 2014 up to April 2015 when the decision to temporarily suspend the direct placement method was fully implemented. However, it is further observed that more than 80% of the total volume of bonds issued within that 15 month period had been issued using the direct placement method.

#### **4.4 Provisions in the Monetary Law Act in relation to the issue of securities by Central Bank**

When inquiries were made by the Committee in this regard, it was pointed out by the Secretary to the Ministry of Finance and the officials of the Central Bank that the power to take decisions regarding the issue of bonds is vested with the Monetary Board of the Central Bank of Sri Lanka as per the provisions of the Monetary Law Act (Annex vii of **Annexure 1**) and that the Monetary Board acted on the financial policy of the government proposed by the incumbent government and the minister of Finance.

It was informed that when the financial policy proposed to be followed in the country was communicated, the Monetary Board acted to meet the fund requirement of the country following the most correct and appropriate method based on that. In the course of extensive questioning by the Committee, it was pointed by the Central Bank officials that the financial policy could be communicated to the Monetary Board in writing or verbally and it was pointed out that in any case, the power to grant the final approval in relation to the financial policy presented by the government was vested with the Monetary Board of the Central Bank.

It was revealed to the Committee that no decision had been taken by the Monetary Board regarding the transaction in question but only informing the Monetary Board on 2<sup>nd</sup> March 2016 of the decision that had been implemented earlier had been done.

#### **4.5 Monetary board of the Central Bank**

As per section 8.1 of Monetary Law Act the governor of the Central Bank shall be the chairman of the Monetary Board and then Monetary Board is comprised of the Secretary to the Ministry of Finance and three members appointed by the President upon the recommendation of the Minister of Finance with the concurrence of the Constitutional Council.

As per the provisions of the Monetary Law Act, the financial policy of the country is communicated to the Monetary Board of the Central Bank by the Secretary to the Ministry of Finance, who is also a member of the Monetary Board. The Committee discussed at length the manner in which the policy of the government related to the methodology

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adopted in issuing Central Bank Bonds was communicated to the Monetary Board of Sri Lanka due to the fact that Central Bank was under the purview of the Ministry Policy Making, Economic Affairs Child and Youth Affairs and Culture coming under the Prime Minister and not under the purview of the Ministry of Finance during the period of time which is relevant to the disputed bond issue.

#### **4.6 Intervention of the Ministry of Finance into the process of fulfilling the Monetary requirement of the country by way of issuing securities by the Central Bank of Sri Lanka.**

##### **4.6.1 Cash Flow Committee**

The Cash Flow Committee meets under the Chairmanship of the Secretary to the Treasury and the Secretary to the Ministry of Finance pointed out to the Committee that all Deputy Secretaries, Heads of all departments of the Treasury, a few officers of the Treasury Operations Department and a few persons, who transact with the Central Bank and have knowledge on this subject, participate in the meetings of the aforesaid Committee. The Secretary to the Ministry of Finance further pointed out that the government's income and expenditure within a month is discussed in the meeting of this Committee and plans are made to obtain the outstanding amount between the income and expenditure from the Treasury, subject to the existing debt limits.

**4.6.2** The Committee inquired whether any follow up review is carried out by the Ministry of Finance in regard to the manner in which the Central Bank makes borrowings to fulfill the monetary requirement of the country. The Secretary to the Ministry of Finance pointed out that such a follow up review is not necessary and, if a need arise, it could only be carried out under the provisions of Monetary Law Act related to the issue of bonds. He also pointed out that attention has been paid by now to carry out a follow up review in that regard based on the recommendations given by the Auditor General in connection with the disputed bond issue.<sup>7</sup>

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<sup>7</sup> Even though it has been mentioned as per the Operations Manual of the Monetary Board that funds should be raised as much as possible through the auction method and the balance should be raised through the private placement method, it has been pointed out that the private placement method has been considered as the correct method as mentioned in the Auditor General's report and that submissions have been made by the Auditor General's report taking the private placement method as the accepted order.

## **5 Issue of bonds on 27<sup>th</sup> February 2015**

### **5.1.1. The Domestic Debt Management Committee and its Functions.**

This Committee is comprised of 5 members including a representative of the Ministry of Finance and the responsibility of this Committee is to maintain the borrowings expected to be made from the domestic money market, the expenditure and the risk at a minimal level and make necessary recommendations for it.

### **5.1.2. Recommendation of the Public Debt Management Committee for fulfilling the monetary requirement of the Country in March 2015.**

The report prepared by the Auditor General with regard to the issue of Central Bank Bonds for the period 2015-2016 points out that the total monetary requirement of the government in March 2015, which should be fulfilled by way of issuing Treasury Bills and Bonds was 261.683 billion rupees and the Public Debt Management Committee which met on 27<sup>th</sup> February 2015 had decided and recommended to obtain 89.683 billion rupees out of the aforesaid amount from Treasury Bills and to obtain 172 billion rupees from the said amount from Treasury Bonds whereas 1 billion rupees from the aforesaid 172 billion rupees would be obtained through primary auction of Treasury Bonds and the remains amount would be obtained through the direct method.

Accordingly, bids were called through advertisements published in the internet and in public newspapers on 25<sup>th</sup> and 26<sup>th</sup> February 2015 respectively to issue to the 16 primary dealers treasury bonds worth 1 billion rupees at an interest rate of 12.5%, which will mature in a period of 30 years. (The reports of the bids placed in that repaired it given in Annex xxiii in **Annexure I**)<sup>8</sup>

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<sup>8</sup> 5.1.1.1 Tender Board of the Central Bank and its duties

The Front Office prepares reports to be submitted to the Tender Board after all auctions of Treasury Bills and Treasury Bonds, and the Tender Board determines how much of Bonds to be purchased with least cost and risk.

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**5.2 Behavior of the Market during the Period Imminent to Issue of Bonds on 27th February 2015.**

A general yield rate of 9.48% existed for 30 year bonds in the secondary market during the week prior to the date on which these bonds were issued. (See Annex xx of Annexure I – page 108)<sup>9</sup>

**5.3 The manner in which Central Bank Bonds were issued on 27<sup>th</sup> February 2015 can be explained as follows as per the oral evidence given by the officials of the Central Bank before Committee on Public Enterprises in regard to the aforesaid issue of Bonds. [Extract – Oral Evidence]<sup>10</sup>**

- The fact that the former Governor of the Central Bank arrived at the Public Debt Management Department at about 10.45 a.m. on that day and inquired of the information such as the demand received from the auction.

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<sup>9</sup> It became obvious that this rate of interest of 9.48% was not a rate that was determined independently in the market based on the rate of interest decided upon by the Central Bank through direct method.

<sup>10</sup> In the morning of 27 February 2015, the Market Operations Committee had reduced the 3 day rule restriction that had been in effect up to that time, i.e. the rate of interest that should be paid if a bank parked funds in the Central Bank more than on three days a month, from 6.5% to 5%. This reduction was scrapped through this decision and it was brought back to the normal rate of 6.5%.



- The fact that though the auction of bonds should have ended at 11.00 a.m. on this day, but the auction was extended up to 11.05 a.m. upon a request from a primary dealer. <sup>11</sup>, <sup>12</sup>

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<sup>11</sup> It is noticed that only one applicant had submitted bids after 11.00 a.m. and this bid is Rs.100 million, and that the applicant that had submitted bids at 11.04.26 was HSBC.

<sup>12</sup> It is stated in the evidence that, on a day prior to the auction in question, the officials of the Central Bank had telephoned the primary dealers about the auction and had enquired about their willingness to purchase about Rs.10 billion. It has been stated that the representative of Perpetual Treasuries, too, had received that telephone call. Further, the officials of the Central Bank have confirmed it, too.

- Perpetual Treasuries had instructed the Bank of Ceylon through e-mail at 10.48 a.m. on 27 February 2015 to bid at the auction Rs.3.0 billion at 12.5%, Rs.5.0 billion at 12.75% and Rs.5.0 billion at 13% to invest 2015. Those bids from the Bank of Ceylon had been received by the Central Bank at 10.57.22, 10.57.41 and 10.57.57 respectively. It had been noted in the record which indicates the bid times. HSBC had submitted bids at 11.06 a.m.

- The fact that a report was prepared to submit to the Tender Committee, the recommendation to the effect that bonds worth 2.6 billion rupees should be issued, which was included in the report prepared by the front office of the Public Debt Management Department with 07 optional methods after considering the demand for bonds in the aforesaid auction.
- The fact that the former Governor of the Central Bank arrived at the Public Debt Bank arrived at the Public Debt Management Department along with two Deputy Governors <sup>13</sup> at about 12.30 p.m. and inquired of the information related to the auction of bonds. <sup>14</sup>

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<sup>13</sup> Dr. Nandalal Weerasinghe and Mr. Ananda Silva

<sup>14</sup> It is stated in the original draft report (fact report) like this. The former Governor of the Central Bank along with two Deputy Governors, Dr. Nandalal Weerasinghe and Ananda Silva, came in to the Public Debt Management Department again around 12.30 p.m. and inquired about the Bond auction.

It was revealed that the tender board was represented by the Chairman of the tender board Deputy Governor Mr. P. Samarasiri, Assistant Superintendent of the Public Debt Department Mr. S.S.Adikari, Assistant Governor of the Economic Research Department Mr. C.P.A. Karunatilake, Superintendent of the Public Debt Department Mrs. C.M.D.N.K. Seneviratne, Director of the Economic Research Department Mrs. Gunarathne and two other superintendents on that day. It was also revealed that the Governor of the Central Bank is not a member of the tender board.

Chairman of the Tender Board Mr. P. Samarasiri stated that the decision to raise Rs. 01 billion to Rs. 10 billion was a collective decision taken by the above mentioned officers on professional judgment.

However, the evidence given by Mrs. Seneviratne, the Superintendent of the Public Debt Department requires special consideration. The Committee pointed out that Mrs. Seneviratne stated that the Governor never ordered her to “do it” but only inquired as to why she did not go for 10. (Why don’t you go for ten). The Report of the Auditor General too has not stated any other thing than the question the Governor is said to have asked her (Why don’t you go for ten).

Mrs. Senevirathna stated that she seeks the forgiveness for the fact that she was unable to state that in the previous Committee meetings.

Further, Dr. A.Z.M Azeem (Deputy Debt Superintendent) also stated that the decision, concerned was also a Committee decision.

“According to the evidence that was given by Dr. Azeem, it is clear that, prior to the date of 27th February 2015, the higher management of the Central bank had been negotiating on shifting towards auction system, deviating from direct placement. The suggestion that was made in the negotiation was to resort to Full scale public auctions. This fact had been discussed on the day before the auction and Dr Azeem and the others had been informed that a decision will have to be taken in that regard. Dr Azeem, giving evidence, further stated that since bids were placed for a 20 times higher amount than that of the advertised amount of Rs.1 Billion, it had been an ideal opportunity to raise funds by way of the public auction”. Therefore, the decision was taken to purchase the entire extent, amounting to Rs. 10 Billion, by way of the public auction on that day. (see Annexure 25)

The evidence revealed the fact that aforesaid decision had been communicated to Governor of the Central Bank by the Tender Committee.

- The fact that the former Governor examined at this moment the list which included the bids placed by primary dealers.
- The fact that the former Governor pointed to the place in which 20 billion was mentioned in the list and asked why 20 billion rupees itself would not been obtained.
- The fact that the former Governor suggested to the officials to obtain 20 billion rupees itself when the officials informed that a demand up to 20 billion rupees had been received.

(The Superintendent of Public Debt Management Department stated in the meeting of the Committee held on 12.08.2016 that the former Governor of the Central Bank came to the Public Debt Management Department and ordered her to obtain the aforesaid amount by saying the words “Do it” However on an earlier occasion she has mentioned in giving evidence the former Governor submitted a suggestion with the words “why don’t you go for ten?”)

- The fact that the officials pointed out to the former Governor the adverse effects which may be created in the financial market if the amount of 20 billion rupees is obtained.
- The fact that the former Governor at this juncture inquired of the weighted ratio of the 30 year bonds issued in September 2014.
- The fact that officials mentioned that the aforesaid rate was 11.75 and then the former Governor inquired why action is not taken based on that financial market ratio.
- The fact that the former Governor later on pointed with his hand to the place in which 10 billion rupees was mentioned in the aforesaid list and gave instructions to the officials to obtain 10 billion rupees.
- The fact that a separate report was prepared by the Debt Management Department to obtain 10 billion rupees as per the instructions given by the former Governor.
- That the Superintendent of the Public Debt Management Department placed a note to obtain 10 billion rupees upon the instruction given by the former

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Governor and informed it to the front office. (*“Governor instructed to place price up to Rs. 10 billion taking into consideration of additional fund requirements of the Government”*)<sup>15</sup>

- That the aforesaid recommendation of 10 billion rupees was brought to the Tender Committee and the Superintendent of the Public Debt Management Department Stated to the officials of the Tender Committee that the former Governor instructed to obtain 10 billion rupees.

**(Tender Board of the Central Bank)**

(The function of the Tender Board of the Central Bank is to take decisions in regard to the implementation of the recommendations submitted by the Public Debt Management Department for issuing bonds. The members of the Tender Committee as at 27<sup>th</sup> February 2015 were Mr. P. Samarasiri, Deputy Governor of the Central Bank (chairman), Mr. S.S. Adikari, Assistant Superintendent of Public Debt Department, Mr. C.P.A. Karunathilaka, Assistant Governor of Economic Research Department, Mrs. C.M.D.N.K. Seneviratne, Superintendent of Public Debt Department, Mrs. Gunaratne, Director of Economic Research Department and two other additional Superintendents).

- The fact that the Chairmen of the Tender Committee inquired from the former Governor over the phone of the reason for giving instructions to obtain 10 billion rupees.
- The fact that the former Governor pointed out two reasons for it.
  1. That the government requires a huge amount of funds.
  2. That it was pointed out that the Special Standing Deposit Facility Rate which was at 5% would be amended and lifted next week and that the interest rate would then be increased. (that the interest rate would go to the same level as it was at the issuance of bonds in the month of September, 2014

*(However, it was pointed out by the Committee, quoting item number two of Monetary board paper dated 23<sup>rd</sup> February 2015 that a decision has been taken by the Central Bank monetary board which met on 23<sup>rd</sup> February, prior to the issuance of bonds on 27<sup>th</sup> of February, to maintain the interest rates as they were until the Monetary Board meets next month.)*

**- Item No.02 of the Board Paper dated 23 February 2015 -**

*“Given the rising trend of the market interest rates and rising growth of private sector credit and decided to maintain the policy interest rates at current level until the next month’s monetary policy review”*

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<sup>15</sup> For further fund requirements

*(It was observed that a decision has been taken by the former governor of Central Bank to change the interest rates in spite of the fact that such a decision had been taken by the Central Bank Monetary Board)*

- That the former Governor has attended the Market Operation Committee in the morning of 27<sup>th</sup> February and that he has advised to increase the Special Standing Deposit Facility Rate which was at 5% up to 6.5% and that the governor is not a member of the said Committee.
- That a circular has been issued on the same day by the Market Operation Committee and enlightened the financial market on the aforesaid interest rate.
- That the former Governor of the Central Bank granted the relevant approval on February 27<sup>th</sup> itself
- That the decision taken to change the aforesaid interest rates was implemented only with effect from 03<sup>rd</sup> March.
- That the aforesaid decision taken by the former Governor of the Central Bank <sup>16</sup> was subjected to ratification at the Monetary Board which was held on 06<sup>th</sup> March 2015. <sup>17</sup>

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<sup>16</sup> With Dr. Nandalal Weerasinghe, Chairman of the Market Operation Committee

<sup>17</sup> Decision taken at the Market Operation Committee

#### 5.4 Table prepared as per the Bid Acceptance Information Sheet for Central Bank bonds on 27<sup>th</sup> February 2015 -

(Dealer)	Face value of Bonds (Rs.)	Amount received at the auction (Rs.)	Weighted Average Yield Rate (WAYR)
Bank of Ceylon	8,000,000	9,546,736	9.3510
Acuity Securities Ltd	50,000,000	56,005,000	9.9063
First Capital Treasuries Ltd.	100,000,000	110,954,800	10.0278
Bank of Ceylon	500,000,000	546,966,000	10.1970
Entrust Securities PLC	50,000,000	52,253,650	10.2339
NSB Fund Management Company Ltd.	100,000,000	104,507,300	10.2959
EPF	500,000,000	522,536,500	10.4652
<b>Total</b>	<b>1,308,000,000</b>	<b>1,402,769,986</b>	

It is pointed out by the Auditor General's report that the Treasury Bonds Tender Committee which met on 27.02.2015 has decided to accept bids up to a value of 10.058 billion Rupees which is more than ten times of the amount in spite of the fact that it has been recommended only to purchase bonds with a value of Rs. 1 billion from the primary Auction by the Domestic Debt Management Committee (Refer annex xxiv of **Annexure 1** - page 112). Although it was expected to earn Rs.10.058 billion by issuing 30 year treasury bonds to 14 dealers who had submitted bids as per a Weighted yield rate from 9.3510 to 11.7270 at the auction held on that day, it had only been possible to earn Rs.9.658 billion as a result of issuing them at a discount rate (Refer annex xxv of **Annexure 1** - page 114). The Auditor General's report further points out as another important factor which was disclosed here that the amount of Rs.0.371 billion (Rs. 10.058 billion – Rs. 9.687 billion) which could not be obtained as above had to be recovered from some other short term source.

#### 5.5 Placement of bids by Perpetual Treasuries Company at the issuance of bonds held on 27<sup>th</sup> February 2015

It is explicit from the above table that other than the 07 primary dealers stated above, there had been no opportunity for other dealers including Perpetual Treasuries who had offered bids for an amount of 75% out of all the bid offerings at a value of Rs.20.708 billion to purchase bids, had the above mentioned primary auction been limited to Rs.1 billion. The auditor general's report points out that as a result of deciding to increase the expected amount of Rs.1 billion up to 10.058 billion the

Perpetual Treasuries company which was not even among the seven primary dealers stated above got the opportunity to purchase 50% of the total bond value i.e. Rs.5 billion and also that here, the said company had made arrangements in such a way to obtain 2 billion out of 5 billion directly and to get 3 billion indirectly through BOC which is another primary dealer. *(Refer annex xxv of Annexure 1 - page 114)*

#### **5.6 Behavior of Bank of Ceylon at the auction of bonds in the financial market on 27<sup>th</sup> February 2015 –**

BOC has offered 03 bids at the rates of 12.50%,12.75% and 13% up to 13 billion on behalf of Perpetual Treasuries company on request made by the said company at the auction of bonds which took place on this date. It was disclosed at the investigations conducted by the Committee that this has been the first instance where one primary dealer has offered bids for central bank bonds on behalf of another primary dealer.

The chairman of BOC made submissions to the Committee that the investigation pertaining to this transaction was entrusted to Earnest and Young Company since he was not aware of this transaction and that he was not satisfied with the written submission made when the Chief dealer related to the central bank bonds transaction section of BOC who was mainly behind this transaction when inquired in this regard.

Accordingly, the report presented by Earnest and Young Company having investigated the contribution of BOC in this particular transaction has been presented as **Annexure 18** of this report.



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### 5.7 Performance of Tender Committee at the auction of bonds on 27<sup>th</sup> February 2015.

Bonds with a value of only 1 billion rupees was recommended to be issued at the primary auction by the Domestic Debt Management Committee.<sup>18</sup> However, the Treasury Bond Tender Committee number 2/2015 which was held from 12.30 to 13.10 after conducting the auction on 27<sup>th</sup> February 2015 has decided to accept bids with a value of Rs.10.058 billion which is more than ten times the aforesaid amount. (Annexure xxiv in **Annexure 01**). The most important factor which was observed here was that the above decision has been taken only after the auction. This is completely an exclusion from the decision which has been earlier taken by the Domestic Debt Management Committee to obtain Rs.12.550 billion through direct placements as mentioned in above paragraph 5.1.3.

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<sup>18</sup> The decision of the Debt Committee on this day was to obtain Rs. 1 billion from the auction and to acquire the balance 172 billion out of direct placements.

The most important contradiction which was observed here was the decision taken by the Tender Committee to obtain Rs.10.058 billion after the termination of the auction having called Rs.1 billion out of it. Further, the decision which was previously taken to obtain Rs. 1 billion out of the auction and the balance through direct placements was confirmed by the Debt Department.

**6. An analysis on three alternative methods through which bonds could have been issued on 27<sup>th</sup> February 2015 and the estimated advantages and disadvantages of those alternatives are presented through the special audit report of the Auditor General on the Central bank bond issue of 2015-2016 <sup>19</sup>**

**6.1. Estimated loss if the bond issue had been limited to Rs.1 billion**

- (i) Rs. 1,403 million could have been obtained had bonds been issued only up to a bid value of Rs.104.5073 per bond If the bond issue of 27<sup>th</sup> February 2015 had been limited to Rs.01 billion as expected, as per the amount of bids placed covering the aforesaid value.

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<sup>19</sup> In considering this question, the evidence given under oath by Dr. Azim is very important. (see footnotes No.14)

For not limiting the issue of bonds to the said value, there was an estimated loss of Rs. 889,358,050/-for the government. <sup>20</sup>, <sup>21</sup>

<i>Dealers</i>	<i>Bidding price</i>	<i>Face value of bond (Government liability)</i>	<i>Accumulative value to be paid</i>	<i>Loss</i>
	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>
<b>EPF</b>	<b>104.507</b>	<b>500,000,000.00</b>	<b>1,402,769,986.00</b>	<b>-</b>
Entrust Securities PLC	103.116	50,000,000.00	1,454,327,886.00	695,750.00
Peoples Bank	102.207	100,000,000.00	1,556,535,086.00	2,300,100.00
NSB Fund Management Co. Ltd	102.207	100,000,000.00	1,658,742,286.00	2,300,100.00
EPF	102.207	1,000,000,000.00	2,680,814,286.00	23,001,000.00
Natwealth Securities Ltd	102.207	50,000,000.00	2,731,917,786.00	1,150,150.00
NSB Fund Management Co. Ltd	101.758	100,000,000.00	2,833,675,786.00	2,749,300.00
Natwealth Securities Ltd	99.999	50,000,000.00	2,883,675,286.00	2,254,150.00
Employee Provident Fund	99.999	500,000,000.00	3,383,670,286.00	22,541,500.00
Perpetual Tresuries Ltd	97.878	250,000,000.00	3,628,365,286.00	16,573,250.00

<sup>20</sup> This loss has been calculated only within an environment of using direct placement method as a correct procedure. But this calculation has been done within the context that direct placement is used as the correct system. But checking of all the documents and the Manual revealed that after 1997 when the bonds have been introduced auction has been introduced as a rule and direct placements can be used as an exception. Further when the direct placement is used Monetary Board should do it through a special board paper. But after 2008 we did not get any evidence of such an approval by the Monetary Board. In those board papers of the Monetary Board it has been mentioned clearly that government funds should be used for that. Further certain conditions have been included in those board papers to protect those funds. According to the Monetary Board Paper dated 07 January 2008 no. MB/PD/01/26/2008 they have mentioned five possible implications of using direct placement. Therefore, it is very clear that direct placement is an exception that can be used with the approval of the Monetary Board during an unstable situation in the country or when it is essential. When the loss is calculated it is not correct to come into the hypothesis that the direct placement can be or should be used. It is not correct to consider the direct placement as a base to calculate the loss.

<sup>21</sup> The Committee at that time did not agree to this principle of calculating. If this bond auction had been limited to Rs. 1 billion, the loss incurred to the government would have been a hypothetical loss calculated on the original calculation done by the Auditor General. The reason for this is the increase of the total market interest rate by 1 1/2 as a result of changing the 3 day rule in the morning of 27<sup>th</sup> February 2015. We have not included that incident in to this hypothesis. Therefore, it not actually possible to state the interest rate payable for obtaining this amount through the direct method. (It had been disclosed that only Rs. 3 billion could be obtained through the direct method on the preceding days in the week of the auction.)

*Report of the Committee on Public Enterprises which functioned as a Special Committee to look into financial irregularities which have occurred in issuing of Treasury Bonds from February 2015 to May 2016 by the Central Bank of Sri Lanka*

Perpetual Tresuries Ltd	95.8394	250,000,000.00	3,867,963,786.00	21,669,750.00
Seylan Bank PLC	95.8074	1,250,000,000.00	5,065,556,286.00	108,748,750.00
Wealth Trust Securities Ltd	93.879	50,000,000.00	5,112,495,786.00	5,314,150.00
Perpetual Tresuries Ltd	93.879	500,000,000.00	5,581,890,786.00	53,141,500.00
Perpetual Tresuries Ltd	91.9928	1,000,000,000.00	6,501,818,786.00	125,145,000.00
Wealth Trust Securities Ltd	90.177	50,000,000.00	6,546,907,286.00	7,165,150.00
The Hongkong and Shanghai Banking Corporation Ltd	90.177	100,000,000.00	6,637,084,286.00	14,330,300.00
Pan Asia Banking Corporation PLC	90.177	250,000,000.00	6,862,526,786.00	35,825,750.00
Capital Alliance Ltd	90.1769	100,000,000.00	6,952,703,686.00	14,330,400.00
Bank of Ceylon	90.1699	3,000,000,000.00	9,657,800,686.00	430,122,000.00
<b>Total</b>				<b>889,358,050.00</b>

## 6.2 Loss incurred as a result of exceeding Rs. 2.608 billion recommended by the Public Debt Management Committee of the Central Bank of Sri Lanka

There was a possibility to issue bonds worth Rs. 2,608 million (so that bid value of a bond would be Rs. 102.20720) as recommended in the option sheet furnished to the Tender Board by the Public Debt Department. Issuing bonds up to the value of Rs. 10.058 billion instead of doing so, has an estimated loss of Rs. 688,538,600 as calculated in the table below: <sup>22</sup>

Dealer	Bid Price Rs.	Face Value of Bond (Government Liability) Rs.	Cumulative Payable Value Rs.	Loss Rs.
Natwealth Securities Ltd	102.21	50,000,000.00	2,731,917,786.00	-
NSB Fund Management Co. Ltd	101.76	100,000,000.00	2,833,675,786.00	449,000.00
Natwealth Securities Ltd	100.00	50,000,000.00	2,883,675,286.00	1,104,000.00
Employee Provident Fund	100.00	500,000,000.00	3,383,670,286.00	11,040,000.00
Perpetual Treasuries Ltd	97.88	250,000,000.00	3,628,365,286.00	10,822,500.00
Perpetual Treasuries Ltd	95.84	250,000,000.00	3,867,963,786.00	15,919,000.00
Seylan Bank PLC	95.81	1,250,000,000.00	5,065,556,286.00	79,995,000.00
Wealth Trust Securities Ltd	93.88	50,000,000.00	5,112,495,786.00	4,164,000.00
Perpetual Treasuries Ltd	93.88	500,000,000.00	5,581,890,786.00	41,640,000.00
Perpetual Treasuries Ltd	91.99	1,000,000,000.00	6,501,818,786.00	102,142,000.00
Wealth Trust Securities Ltd	90.18	50,000,000.00	6,546,907,286.00	6,015,000.00
The Hongkong and Shanghai Banking Corporation Ltd	90.18	100,000,000.00	6,637,084,286.00	12,030,000.00
Pan Asia Banking Corporation PLC	90.18	250,000,000.00	6,862,526,786.00	30,075,000.00
Capital Alliance Ltd	90.18	100,000,000.00	6,952,703,686.00	12,030,100.00
Bank of Ceylon	90.17	3,000,000,000.00	9,657,800,686.00	361,113,000.00
<b>Total</b>				<b>688,538,600.00</b>

<sup>22</sup> If this bond auction had been limited to Rs.26 billion, the loss incurred to the government would have been a hypothetical loss calculated on the original calculation done by the Auditor General. Facts mentioned in footnotes 20 and 21 are also relevant to the calculation made above.

**6.3 Estimated Loss in the event the suggestion by the Governor of the Central Bank to obtain Rs.20 billion had been executed**

If bonds worth Rs.20 billion had been issued as suggested by the Governor of the Central Bank, instead of limiting the issuance to Rs.1 billion, the government would have to incur a loss of Rs. 2,730,059,050 as calculated in the table given below: <sup>23</sup>

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<sup>23</sup> This is only a hypothetical assumption as Rs.20 billion was not obtained

Dealer	Bid Price Rs.	Face Value of Bond (Government Liability) Rs.	Cumulative Payable Value Rs.	Loss Rs.
Employee Provident Fund	<b>104.5073</b>	<b>500,000,000</b>	<b>1,402,769,986</b>	-
Entrust Securities PLC	103.1158	50,000,000	1,454,327,886	695,750
People's Bank	102.2072	100,000,000	1,556,535,086	2,300,100
NSB Fund Management Co. Ltd	102.2072	100,000,000	1,658,742,286	2,300,100
Employee Provident Fund	102.2072	1,000,000,000	2,680,814,286	23,001,000
Natwealth Securities Ltd	102.207	50,000,000	2,731,917,786	1,150,150
NSB Fund Management Co. Ltd	101.758	100,000,000	2,833,675,786	2,749,300
Natwealth Securities Ltd	99.999	50,000,000	2,883,675,286	2,254,150
Employee Provident Fund	99.999	500,000,000	3,383,670,286	22,541,500
Perpetual Tresuries Ltd	97.878	250,000,000	3,628,365,286	16,573,250
Perpetual Tresuries Ltd	95.8394	250,000,000	3,867,963,786	21,669,750
Seylan Bank PLC	95.8074	1,250,000,000	5,065,556,286	108,748,750
Wealth Trust Securities Ltd	93.879	50,000,000	5,112,495,786	5,314,150
Perpetual Tresuries Ltd	93.879	500,000,000	5,581,890,786	53,141,500
Perpetual Tresuries Ltd	91.9928	1,000,000,000	6,501,818,786	125,145,000
Wealth Trust Securities Ltd	90.177	50,000,000	6,546,907,286	7,165,150
The Hongkong and Shanghai Banking Corporation Ltd	90.177	100,000,000	6,637,084,286	14,330,300
Pan Asia Banking Corporation PLC	90.177	250,000,000	6,862,526,786	35,825,750
Capital Alliance Ltd	90.1769	100,000,000	6,952,703,686	14,330,400
Bank of Ceylon	90.1699	3,000,000,000	9,657,800,686	430,122,000
Pan Asia Banking Corporation PLC	88.428	150,000,000	9,790,442,686	24,118,950
Bank of Ceylon	88.4074	5,000,000,000	14,210,812,686	804,995,000
Bank of Ceylon	86.769	5,000,000,000	18,549,262,686	886,915,000
Commercial Bank of Ceylon PLC	86.7428	50,000,000	18,592,634,086	8,882,250
Pan Asia Banking Corporation PLC	86.7425	100,000,000	18,679,376,586	17,764,800
Acuity Securities Ltd	86.74	100,000,000	18,766,116,586	17,767,300
Commercial Bank of Ceylon PLC	86.0851	50,000,000	18,809,159,136	9,211,100
Union Bank of Colombo PLC	76.4803	50,000,000	18,847,399,286	14,013,500
Union Bank of Colombo PLC	74.2125	50,000,000	18,884,505,536	15,147,400
Seylan Bank PLC	62.6216	100,000,000	18,947,127,136	41,885,700
<b>Total</b>				<b>2,730,059,050</b>



Estimated losses given above are merely the immediate losses that the government would have to incur by the given date. But the Report of the Auditor General point out that if long term effects of such action were taken into consideration, the above loss alternatives would increase further.

### **7. Rejecting the 2 bond auctions held on 10<sup>th</sup> and 24<sup>th</sup> March 2016**

Report of the Auditor General points out that the two bond auctions held on 10<sup>th</sup> and 24<sup>th</sup> March 2016 were rejected citing that bids that were offered contained rates higher than the expected yield rates (*Annex xxxi* of Annexure 1)

### **8. Issuing of bonds by the Central Bank on 29<sup>th</sup> March 2016**

Report of the Auditor General points out that bids had been called for issuing 04 bonds of Rs. 10 billion each with different maturity periods, i.e., bonds worth Rs. 40 billion on 29 March 2016.

#### **8.1 Report of the Auditor General points out following facts regarding the purchasing of bonds up to 35% to 44% by Perpetual Treasuries in the aforementioned deal**

At this point, bids had been called up to the limit of Rs.40 billion and based on the bids received, additional bonds worth Rs. 37.732 (face value), i.e., bonds with a total face value of Rs. 77.732 had been issued. 60% of the bonds issued in addition to the value of the bids that were called initially, were acquired by Perpetual Treasuries. Aforementioned institution had acquired only 0.5% of the initial bond issue under the lowest yield rates but was successful in acquiring 35% to 44% of the bonds issued under higher yield rates. In other words, they have obtained a greater volume of bonds when the commissions increased.<sup>24 , 25</sup>

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<sup>24</sup> There was no evidence placed before this Committee that the former Governor of the Central Bank Mr. Arjun Mahendran or Dr. Nandalal Weerasinghe and Mr. Ananda Silva, Deputy governors were consulted or have interfered with when the auction relating to this transaction was held or when the decision taken by the Tender Board. This has to be given special consideration.

<sup>25</sup> As observed by the Committee, in this bond issue more low interest rate bonds and less high interest rates bonds should have been purchased by the government. But there are no facts revealing such information. Therefore, this Committee observes that a detailed investigation is required about the bond issue on that day.

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The ground for rejecting the two auctions held prior to this particular auction was higher yield rates which is a commonality observed in this auction as well. Yet, in this instance, bonds had been issued at yield rates as high as 14.0742.

Although a decision had been made to issue bonds to gain a face value of Rs.77.73 billion through the issuing of 4 bonds, only Rs. 59.325 billion could be sourced from this auction. Balance Rs. 18.407 had to be sourced from other short term credit sources. It was revealed that such action had to be taken due to the disadvantageous effect of the aforesaid decision.

Report of the Auditor General points out that issuing bonds exceeding the anticipated value by a large margin, i.e., accepting bids up to Rs. 10.058 billion at the bond auction held on 27 February 2015 to source Rs. 1 billion and accepting bids up to Rs. 77.73 billion at the bond auction held on 29 March 2016 after calling for bids to source obtain Rs. 40 billion has provided Perpetual Treasuries Ltd with the opportunity to acquire the share that exceeded the initially anticipated value.

It was also observed that rejection of bids submitted by Perpetual Treasuries was at a lower rate when compared with the number of occasions where bids submitted Ltd by primary dealers had been rejected and the number of occasions where tenders submitted by other primary dealers had been rejected.

Whether the fact that profits after tax for the years 2014/2015 and 2015/2016 of Perpetual Treasuries Ltd being as massive as Rs.0.959 billion and Rs.5.124 billion respectively while the stated capital for the said years had been Rs.310.3 million according to the audited financial statements of Perpetual Treasuries Ltd that had been given in the advertisement published by that Company in the Sunday Observer of 25 September 2016 (**Annexeure 17**) had resulted from what has been pointed out in the aforesaid audit observations cannot be disregarded.

The market behaviour of Perpetual Treasuries Ltd as per 27/02/2015 in the financial market has been described in the report of the Auditor General as follows:

- (i). Receiving from Perpetual Treasuries Ltd bids amounting to Rs.13.60 billion out of the total bid value of Rs.20.708 billion immediately before the auction ended, i.e., during the last 08 minutes before the auction ended.
- (ii). Submitting bids amounting to Rs.13.00 billion on behalf of Perpetual Treasuries within the aforesaid amount of Rs.13.60 billion.

- (iii). Accepting bids up to Rs.10.058 billion while bids for a value of Rs.1.00 billion had been invited.
- (iv). Bank of Ceylon had submitted bids for bonds for a value of Rs.13 billion on behalf of Perpetual Treasuries and it had been the first time that a primary dealer had submitted bids on behalf of another primary dealer.
- (v). While bids had been invited for Rs.1.0 billion, Perpetual Treasuries had submitted bids for a total of Rs. 15.0 billion by way of Rs. 2.0 billion directly and Rs.13.0 billion through Bank of Ceylon and it is unusual that bids had been submitted for a value that is 15 times greater than the value of bids that had been invited.<sup>26</sup>

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<sup>26</sup> M/s Perpetual Treasuries Ltd has obtained this large profit through selling these Bonds in the Secondary Market which bonds they obtained at the primary market. It should be specially investigated that whether these bonds were purchased from the M/s Perpetual Treasuries Ltd. By the funds like EPF that belongs to the government, and to find out the reasons for them to so engage in such a transaction. Further the ability of the EPF to purchase bonds in the primary market and the reason to purchase bonds in the secondary market at a higher price should be investigated.

## 8.2 The estimated loss of Rs. 784,898,755 that has been caused by the issue of bonds on 29 March 2016 as pointed out by the Auditor General .

Instead of the nominal value of Rs.40 billion that had been expected through the issue of these bonds, up to Rs.77.732 billion had been accepted. However, it has been pointed through the report of the Auditor General that the estimated loss of Rs. 784,898,755/- which has been calculated in the table given below, could have been prevented if the issue of bonds had been limited to its face value of Rs.40 billion without doing as described above.<sup>27</sup>

Dealer	Bid Price Rs.	Face Value of the Bond (Government Liability) Rs.	Cumulative Payable Value Rs.	Loss Rs.
	84.3512	800,000,000	<b>8,733,875,000</b>	-
<b>Total</b>				-
<b>People's Bank</b>	<b>75.57580</b>	<b>120,000,000</b>	7,886,053,130	-
Natwealth Securities Ltd	75.4451	100,000,000	7,961,498,230	130,700
People's Bank	75.4451	120,000,000	8,052,032,350	156,840
People's Bank	75.3147	120,000,000	8,142,409,990	313,320
Perpetual Treasuries Ltd	75.2279	50,000,000	8,180,023,940	173,950
People's Bank	75.2279	160,000,000	8,300,388,580	556,640
Perpetual Treasuries Ltd	75.2279	200,000,000	8,450,844,380	695,800
People's Bank	75.1845	120,000,000	8,541,065,780	469,560
People's Bank	75.0547	120,000,000	8,631,131,420	625,320
People's Bank	74.9253	120,000,000	8,721,041,780	780,600
Seylan Bank PLC	74.8393	100,000,000	8,795,881,080	736,500
Perpetual Treasuries Ltd	74.7961	50,000,000	8,833,279,130	389,850
Perpetual Treasuries Ltd	74.7961	100,000,000	8,908,075,230	779,700
Wealth Trust Securities Ltd	74.7961	100,000,000	8,982,871,330	779,700
People's Bank	74.7961	120,000,000	9,072,626,650	935,640
Perpetual Treasuries Ltd	74.7961	250,000,000	9,259,616,900	1,949,250
Seylan Bank PLC	74.7959	160,000,000	9,379,290,340	1,247,840
Capital Alliance Ltd	74.7959	200,000,000	9,528,882,140	1,559,800
Perpetual Treasuries Ltd	74.3678	50,000,000	9,566,066,040	604,000
People's Bank	74.3678	200,000,000	9,714,801,640	2,416,000
Perpetual Treasuries Ltd	74.3678	250,000,000	9,900,721,140	3,020,000

<sup>27</sup> The Auditor General has submitted information about 25 purchases from the bond market from January 2014 to May 2016 and this Committee has not taken any evidence on 23 auctions out of those 25 auctions. Further no detailed evidence has been taken about the bonds on 29.03.2016. A detailed investigation has been conducted only on the bond issue that took place on 27 February 2015. Not making an inquiry on the other 23 auctions has made it difficult to take a correct decision in this investigation. Therefore, in a future investigation a detailed investigation should be conducted on all the bond issues and the use of auctions and direct placements. Especially a forensic auditing is essential when such investigations are conducted. The facts in foot note 20 and 21 are also relevant here.

*Report of the Committee on Public Enterprises which functioned as a Special Committee to look into financial irregularities which have occurred in issuing of Treasury Bonds from February 2015 to May 2016 by the Central Bank of Sri Lanka*

Perpetual Treasuries Ltd	73.943	50,000,000	9,937,692,640	816,400
Perpetual Treasuries Ltd	73.943	500,000,000	10,307,407,640	8,164,000
Bank of Ceylon	73.9345	250,000,000	10,492,243,890	4,103,250
Capital Alliance Ltd	73.732	100,000,000	10,565,975,890	1,843,800
Wealth Trust Securities Ltd	73.7319	100,000,000	10,639,707,790	1,843,900
Perpetual Treasuries Ltd	73.5216	50,000,000	10,676,468,590	1,027,100
People's Bank	73.5216	250,000,000	10,860,272,590	5,135,500
Perpetual Treasuries Ltd	73.5216	750,000,000	11,411,684,590	15,406,500
Perpetual Treasuries Ltd	73.1036	50,000,000	11,448,236,390	1,236,100
Seylan Bank PLC	73.1036	180,000,000	11,579,822,870	4,449,960
Perpetual Treasuries Ltd	73.1036	750,000,000	12,128,099,870	18,541,500
Seylan Bank PLC	72.6891	100,000,000	12,200,788,970	2,886,700
Capital Alliance Ltd	72.6891	100,000,000	12,273,478,070	2,886,700
Wealth Trust Securities Ltd	72.68902	100,000,000	12,346,167,090	2,886,780
Perpetual Treasuries Ltd	72.689	50,000,000	12,382,511,590	1,443,400
First Capital Treasuries Ltd	72.689	100,000,000	12,455,200,590	2,886,800
Perpetual Treasuries Ltd	72.689	750,000,000	13,000,368,090	21,651,000
Bank of Ceylon	72.656	180,000,000	13,131,148,890	5,255,640
Perpetual Treasuries Ltd	72.483	2,000,000,000	14,580,808,890	61,856,000
Seylan Bank PLC	72.2778	100,000,000	14,653,086,690	3,298,000
Perpetual Treasuries Ltd	72.2777	50,000,000	14,689,225,540	1,649,050
People's Bank	72.2777	160,000,000	14,804,869,860	5,276,960
Perpetual Treasuries Ltd	72.2777	2,000,000,000	16,250,423,860	65,962,000
<b>Total</b>				<b>258,828,050</b>
<b>Capital Alliance Ltd</b>	<b>75.91150</b>	<b>200,000,000</b>	8,012,848,545.00	
People's Bank	75.821	60,000,000	8,058,341,145	54,300
People's Bank	75.6858	60,000,000	8,103,752,625	135,420
Perpetual Treasuries Ltd	75.6858	500,000,000	8,482,181,625	1,128,500
Perpetual Treasuries Ltd	75.2376	750,000,000	9,046,463,625	5,054,250
Perpetual Treasuries Ltd	74.7933	100,000,000	9,121,256,925	1,118,200
Capital Alliance Ltd	74.7933	200,000,000	9,270,843,525	2,236,400
Perpetual Treasuries Ltd	74.7933	750,000,000	9,831,793,275	8,386,500
Perpetual Treasuries Ltd	74.134	500,000,000	10,202,463,275	8,887,500
Perpetual Treasuries Ltd	74.0904	500,000,000	10,572,915,275	9,105,500
Perpetual Treasuries Ltd	74.0468	500,000,000	10,943,149,275	9,323,500
Perpetual Treasuries Ltd	74.0032	500,000,000	11,313,165,275	9,541,500
Perpetual Treasuries Ltd	73.9597	500,000,000	11,682,963,775	9,759,000
Perpetual Treasuries Ltd	73.9162	2,000,000,000	13,161,287,775	39,906,000
<b>Total</b>				<b>104,636,570</b>
<b>Perpetual Treasuries Ltd</b>	<b>73.71470</b>	<b>1,000,000,000.00</b>	8,185,426,680.00	-
Seylan Bank PLC	73.7146	50,000,000	8,222,283,980	50
Wealth Trust Securities Ltd	73.4701	100,000,000	8,295,754,080	244,600
Perpetual Treasuries Ltd	73.2268	25,000,000	8,314,060,780	121,975
Wealth Trust Securities Ltd	73.2268	50,000,000	8,350,674,180	243,950
Wealth Trust Securities Ltd	73.2268	100,000,000	8,423,900,980	487,900
Perpetual Treasuries Ltd	73.2268	1,000,000,000	9,156,168,980	4,879,000
Seylan Bank PLC	73.2267	20,000,000	9,170,814,320	97,600
Capital Alliance Ltd	72.9849	100,000,000	9,243,799,220	729,800

Wealth Trust Securities Ltd	72.9848	150,000,000	9,353,276,420	1,094,850
Wealth Trust Securities Ltd	72.9848	500,000,000	9,718,200,420	3,649,500
Wealth Trust Securities Ltd	72.9848	600,000,000	10,156,109,220	4,379,400
Perpetual Treasuries Ltd	72.7441	25,000,000	10,174,295,245	242,650
People's Bank	72.7441	40,000,000	10,203,392,885	388,240
Wealth Trust Securities Ltd	72.7441	100,000,000	10,276,136,985	970,600
Perpetual Treasuries Ltd	72.7441	1,000,000,000	11,003,577,985	9,706,000
NSB Fund Management Co. Ltd	72.744	10,000,000	11,010,852,385	97,070
NSB Fund Management Co. Ltd	72.2665	10,000,000	11,018,079,035	144,820
Perpetual Treasuries Ltd	72.2665	25,000,000	11,036,145,660	362,050
Seylan Bank PLC	72.2665	40,000,000	11,065,052,260	579,280
Wealth Trust Securities Ltd	72.2665	100,000,000	11,137,318,760	1,448,200
Perpetual Treasuries Ltd	72.2665	1,000,000,000	11,859,983,760	14,482,000
Wealth Trust Securities Ltd	72.0296	250,000,000	12,040,057,760	4,212,750
NSB Fund Management Co. Ltd	71.794	10,000,000	12,047,237,160	192,070
People's Bank	71.794	60,000,000	12,090,313,560	1,152,420
Seylan Bank PLC	71.794	100,000,000	12,162,107,560	1,920,700
Capital Alliance Ltd	71.794	100,000,000	12,233,901,560	1,920,700
Wealth Trust Securities Ltd	71.794	550,000,000	12,628,768,560	10,563,850
Wealth Trust Securities Ltd	71.794	550,000,000	13,023,635,560	10,563,850
Seylan Bank PLC	71.3266	60,000,000	13,066,431,520	1,432,860
Wealth Trust Securities Ltd	71.3265	100,000,000	13,137,758,020	2,388,200
Perpetual Treasuries Ltd	71.0946	1,000,000,000	13,848,704,020	26,201,000
Perpetual Treasuries Ltd	71.0484	1,000,000,000	14,559,188,020	26,663,000
Perpetual Treasuries Ltd	71.0022	1,000,000,000	15,269,210,020	27,125,000
Perpetual Treasuries Ltd	70.9561	1,000,000,000	15,978,771,020	27,586,000
Perpetual Treasuries Ltd	70.9561	1,000,000,000	16,688,332,020	27,586,000
People's Bank	70.864	80,000,000	16,745,023,220	2,280,560
Wealth Trust Securities Ltd	70.86395	100,000,000	16,815,887,170	2,850,750
Wealth Trust Securities Ltd	70.63451	500,000,000	17,169,059,720	15,400,950
Wealth Trust Securities Ltd	70.63451	500,000,000	17,522,232,270	15,400,950
Capital Alliance Ltd	70.6345	100,000,000	17,592,866,770	3,080,200
Seylan Bank PLC	70.4065	15,000,000	17,603,427,745	496,230
Seylan Bank PLC	70.4065	80,000,000	17,659,752,945	2,646,560
Pan Asia Banking Corporation PLC	70.4063	5,000,000,000	21,180,067,945	165,420,000
<b>Total</b>				<b>421,434,135</b>
<b>Grand Total</b>				<b>784,898,755</b>

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### 9. The Committee took into consideration the following facts that are contained in the report of the Auditor General about the impact on the money market of this country

<sup>28</sup> However, if this auction was limited Rs.40 billion, the loss to the government shall be only a hypothetical loss calculated according to the initial calculations of the Auditor General. Matters submitted under footnotes 20 and 21 are relevant in this occasion too.

## **and the advantages and disadvantages that resulted from issuing of bonds by the Central Bank during 2015 – 2016.**

### **9.1 The financial loss caused to the Employees' Provident Fund**

Another significant fact about the issue of these bonds is that the Employees' Provident Fund, which is a body that functions under the supervision of the Central Bank and which has the capacity to purchase bonds from the primary auction, had purchased a comparatively lower amount of bonds from the primary market which has a greater yield and had missed the opportunity of gaining the financial benefits due to the purchasing from the secondary market with a lower yield.<sup>29</sup>

It has also been pointed out through the report of the Auditor General that it is questionable as to why they had purchased bonds from the secondary market even without applying for purchasing directly from the primary market the remaining amount of bonds they had needed.

Auditor General's report points out the fact that it is questionable that the Central Bank has not drawn its attention towards this conduct of the Employees Provident Fund which is an institution, coming under the Monetary Board of central bank.

### **9.2. Disappointments with regard to purchasing of Central bank bond by foreign investors.**

In its investigations that were conducted by the Committee, it was revealed that bonds of 30 year maturity were scheduled for 27<sup>th</sup> February 2015, and although the Monetary Board of central bank had expected that the foreign investors would come forward to purchase long term bonds, there had not been such thing.

### **9.3 The impact on financial market due to the determination of a higher interest rates**

The secondary market General yield ratio of the previous week which was the foundation in determining a stabilized interest rates, to the date of 27<sup>th</sup> February

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<sup>29</sup> During the period of last six years, a situation of utilizing the funds of EPF for obtaining unnecessary advantages for the primary dealers has been observed. It can be seen that the said situation further continues. Therefore, special provisions have to be formulated on investing the funds available in the EPF in a more productive manner. Further, funds which are available with the EPF are the funds saved by the workers of this country on behalf of their future as per the law of the country. There is a requirement to formulate more productive methodologies of investing such funds also further legal provisions regarding the security of those funds. It is the view of the Committee that several members leveled allegations against the occurrence of this process in the same manner in the share market from 2010 to 2013 and that it should be subjected to inspection.



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2015, was 9.48.<sup>30</sup> In such circumstances, a stabilized interest rate of 12.5% had been declared for the respective auction. And also, two days prior to the auction, before 25<sup>th</sup> of 2015, the secondary market General Yield ratio of previous week was only 10.03. Accordingly, it was not revealed of the manner in which the stabilized interest rate of 12.5 % was determined for the auction on 27<sup>th</sup> February 2015. And also it is determined that the additional cost that has to be borne by the government for a long term like 30 years for higher interest rates, is also should be taken as a loss for the government. An important fact that was observed here was the tendency of the government to become a subject of losses even with a trivial increase of the interest rate of the 30 year, long term bonds.

#### **9.4 Primary Dealers' capability of having profitable grounds in Money market, by reason of shifting in to auction system<sup>31</sup>**

Auditor General's report is extensive in pointing out the fact that, the government has to incur an additional cost as the General Yield Ratio takes a higher value since primary market transactions has been shifted to Auction system .The Auditor General's report observes that the primary dealers are able to sell bonds in the secondary market with a higher profit margin as the secondary market value of the bonds, is in a higher price though the bonds have been sold to the primary dealers, with a discounted value and a profitable ground which could have been gained for the government is shifted to the primary dealers.<sup>32</sup>

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<sup>30</sup> It has been stated by the officers of the Central Bank to the Auditor General that it was for a survey that an interest rate of 12.5% was indicated as a formula in the notice published on 25.12.2015 on the aforesaid auction and further on 25.02.2015, on which the aforesaid newspaper notice was published, the yield rate for 30 year bonds by the Central bank was 10.14%. It should be subjected to special attention.

<sup>31</sup> on the argument put forward by the Auditor general on the view of the Committee that .....

<sup>32</sup> However, as detailed in it, it is observed by the Committee that the auction is the practice as per the accepted procedure of law indicated in Section B1 of the Handbook.

**9.5 Successful outcome from the Government institutions had been weakened by reason of shifting in to auction system in bond issues.**

Auditor General's report observes that with the changes of the system from 27<sup>th</sup> February 2015, the state institutions, which are the primary dealers such as the Employees Provident Fund, National Savings Bank Fund Management Company, Peoples bank, and Bank of Ceylon in Treasury Bond Issuances, had become weak in achieving successful outcomes.

**9.6 Refusal of Bond auctions in the context of determining Higher interest rates**

The auditor general's report points out that there had been 5 occasions in which the bond auctions were completely refused during the time 2015- 2016 may, due to bidding for higher interest rates and there had been a tendency that the primary dealers bidding even higher values, exceeding the value that was expected by the Central bank.

**10. Recommendations of the Special audit report, on Central bank bond issue 2015-2016, compiled by Auditor General**

- (i) In entering in to policy decisions, changing existing systems and introducing new systems, respective decisions should be taken, taking the long term and short term impact on the objectives of the Central Bank and positive or negative impact on the country, in to consideration and evidence should be maintained, enabling them to be produced, when and where it is necessary.
- (ii) in the context that the Central bank doesn't possess sufficient data to Monitor the secondary market, maintaining all data by central bank, in order to prevent the failure of successful manipulation and the monitoring of the financial market.
- (iii) maintaining the data with regard to the ownership and the manner of the transaction up to the point of the maturity of the bonds issued by the central bank and until they are submitted to get money.

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- (iv) as the confidence on a central bank of a country rests upon the integrity of the decisions that are taken by the officials, and since aforesaid confidence should be maintained locally and internationally, working in a manner that is transparent, under certain limitations, enabling the demonstration of the integrity of the decisions with the ability to convince in time.
  - (v) taking measures by the Higher management of the Central bank to act in good faith with proper revelations, if there are conflicts of interests within the central bank officials who can influence the Management decisions of the Central Bank of Sri Lanka and the institutions related, though there could be various interpretations and exceptions, with regard to the legal grounds and Accounting standards, not confining in to them.
  - (vi) As most of the decisions of the Central bank have a long-term impact on entire economy of the country and it is very much important to scrutinize those decisions by the independent parties as to whether such decisions are taken on correct grounds in taking such important, complex and sensitive decisions, for the reason that the public will have to face the positive or negative outcomes of those decisions. Accordingly, section 45 of the Monetary law act should be amended in a proper way, restricting the use of confidentiality provisions that obstructs the furnishing of information to the institutions that are vested with power to investigate whether such complex decisions have simply been taken, instantly without formal evaluation and it has brought about unfavorable results.
  - (vii) a request was made from the governor of central bank, in writing, asking to highlight the confidential and sensitive information which was among the information that was provided by the Central bank of Sri Lanka and (see Annexure xxxiv of annexure 1) all the information that was provided as the reply (Annexure iii of Annexure 1) has to be considered as confidential. Therefore, it has to be mentioned that state audit has taken measures not to include such information which was identified, as it is, in the report and such information will be submitted to Hon, speaker of the parliament.
  - (viii) A proper methodology should be introduced, by the guidelines, to monitor the inter transactions within the primary dealers that are taking place in respect of bonds.

- (ix) in respect of the bond auctions, the extension of the closing date and the time of the public auctions, in certain situations, had been approved and such extensions should be confined in to the facts that are unavoidable and justifiable.
- (x) Although the employees Provident fund is not a registered primary dealer, it has been permitted to purchase bonds from the primary market as in the case of primary deals. However, it has been observed that there is a tendency of Employees Provident fund, purchasing bonds in secondary market from other primary dealers, as an alternative to purchasing bonds from the primary market. Making, the employees provident fund that comes under the supervision of Central bank of Sri Lanka presently, a primary dealer who can work independently, free from the supervision of central bank.
- (xi) Presently, central bank obtains the requirement of the coming month from the treasury and extending it at least up to 3 months.
- (xii) As mentioned above, the treasury to pre-determine the manner in which the requirement can be collected.
- (xiii) Monitoring primary dealers adequately by central bank. Recently by reason of the bankruptcy of one primary dealer, the government as well as the other investors who dealt with him also had been inconvenienced. Requirement of having an adequate supervision on their financial capabilities and behaviors, to avoid such situations.
- (xiv) the secretary to the treasury was asked to highlight the confidential documents which were among the information that was provided to the Auditor general by Central bank of Sri Lanka .A deputy secretary to the treasury, in reply, had informed that the functions of the treasury in respect of the issuance of treasury bonds, is confined to inform the central bank of the loan requirement of the government on monthly basis, within the limits that are permitted by the annual budget .However the fact that the function of the treasury as a major institution with which the supervision of the central bank is entrusted with, cannot be agreed upon in the auditing process .

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**10.1 the conclusions of the special audit report, on the Central Bank bond issue 2015-2016, compiled by Auditor General.**

- (i) it is concluded that the authorities are responsible for not avoiding Rs. 1,674,256,805 of total estimated loss which could have been avoided in two bond auctions which were held on 27<sup>th</sup> February 2015 and on 29<sup>th</sup> March 2016; namely the estimated loss of Rs. 889, 358,050 that was pointed out in Auditor General's report which could have been avoided and the estimated loss of Rs. 784,898, 755 that was mentioned in paragraph 5.2.3 of that could be avoided.

further, it is concluded that if the estimated loss or profit is calculated even in relation to the bond issues that had taken place from 27<sup>th</sup> February 2015 to May 2016, during the period in which the decision to suspend the issue of bonds by direct placements was taken, it cannot neglect the fact that the tendency of escalating aforesaid estimated loss, further.

- (ii) According to the facts that was revealed with the Auditor general in compiling this report and facts revealed by aforesaid paragraphs, it is concluded that the Governor of the Central Bank had not observed professional due care, up to the level that is expected from a governor of a central bank in performing his task.

(iii) It is emphasized that Auditor general has performed his task within the powers and within the subject area he is entitled to, in compiling this report. Since no investigations were carried out to see whether there are criminal or illegal activities that are not coming within the purview of the Auditor General and if it is felt that there should be such an investigation, it is concluded that it is suitable to seek the assistance of the specialized institutions, in that regard. <sup>33</sup>

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<sup>33</sup> The Committee observes the following with regard to the aforesaid conclusions: It has been explained in the report of the Auditor General that the scope of the Department of the Auditor General with regard to this audit had been limited as follows:

3. Limitation of the scope (As contained in the report of the Auditor General which includes the updates made to his special audit report as per the information disclosed by him) It is emphasized that my scope had been subjected to the following limitations when arriving at conclusions through the observations that have been highlighted in this report:
  - 3.1 Although it had been mentioned that action should be taken in accordance with the practices given in a certain Operations Manual of the Central Bank with regard to the process in question, the fact that it had been reported to me that the said Operations Manual was not an overall manual that had been approved by the Monetary Board of the Central Bank or by some other body with proper authority.
  - 3.2 That there was a considerable time gap between the dates on which the said happenings had taken place and the date on which the Auditor General was assigned with the task of carrying out an examination into the process in question.
  - 3.3 Lack of sufficient time to get the assistance of experts in finance and economics who possess a wide, subjective knowledge on the process in question and obtaining such assistance being problematic due to the problem of confidentiality stated in the first paragraph of this report.
  - 3.4 Even though such experts referred to in paragraph 3.3 are available at the Central bank, the fact that it had been problematic as to whether their services could be obtained in an impartial manner.
  - 3.5 Lack of authority for the Auditor General to directly obtain from or to get confirmed from the said third party the information regarding the secondary market that is crucial with regard to the relevant issue.
  - 3.6 Having no capability of disclosing whether the Central Bank had the capacity to quantitatively influence the primary dealers that have been referred to in this report.
  - 3.7 Having no capability of disclosing whether the primary dealers themselves or the Governor of the Central Bank and Primary dealers had the capacity to quantitatively influence one another.
  - 3.8 As the telephone conversations that had taken place between the officials of the Central Bank and primary dealers had not been recorded, having no possibility of examining such conversations.
  - 3.9 Not physically examining the recordings of live proceedings of the affairs related to the auction that took place on 27 February 2015.
  - 3.10 Despite that a written request had been submitted to the Governor of the Central Bank requesting that the confidential and sensitive information available among the information that was provided by the Central Bank for the purpose of preparing the report be identified correctly,

all the information that had been provided had to be considered confidential as per the reply given by the Governor, and therefore having restrictions in reporting information.

- The Auditor General has arrived at the aforesaid conclusions i, ii and iii due to constraints of the scope, other weaknesses in the process related to issuing of bonds, non performance of a forensic audit and on the basis of the principle that the accepted rule for the issuance of bonds is to adopt the auction method while direct placement method is the exception to the rule but this is assumption made as a result of the unavailability of all required documents at the time of preparation of the aforesaid report. Furthermore, Superintendent of the Public Debt Department of the Central Bank was called before the Committee on Public Accounts during the investigation in order to clarify matters which came up during the discussion on the Draft report. It appears that the Auditor General did not have access to information contained in letters dated 21-10-2016 and 24-10-2016. These are the latest information. These two letters too must be included in this report as annexes. Accordingly, it is evident that the Auditor General has arrived at aforementioned conclusions i, ii, and iii subject to constraints faced by the Auditor General regarding the bonds in question and the non provision of accurate information by the Central Bank while the aforesaid report was being prepared by the Auditor General. While this is not an accusation leveled against the Auditor General, it is the view of the Committee that the Auditor General did not have required facts at the initial stage to arrive at an accurate conclusion based on factual information.
- It is appropriate to quote the fact mentioned in the letter dated 21-10-2016 and the facts mentioned in the letter dated 24-10-2016 in its original form in the report. Accordingly, it is clear that direct placement process mentioned in the Manual has not been extended by the Central Bank after the end of 2008. It is the view of the Committee that bonds issued on direct placement basis after the end of 2008, i.e., 2009-2014 years have been issued outside the law. It is essential that a formal investigation is carried out regarding the effects of the aforesaid illegal issuing of bonds on the country.
- Therefore the Committee is of the view that the conclusion of the Auditor General is against the due facts, the relevant legal conditions and the evidence submitted before the Committee.
- Furthermore the Committee opines that if a due audit is conducted in the future in regard to the bond issued during the period from the year 2008 up to 2016, a correct conclusion can be reached in regard to the impact by it to the country.
- It is important to provide the necessary power to the Auditor General to reach a comprehensive conclusion in regard to private firms which are related to the financial activities of the government. Especially the Auditor General shall be given full Authority to look in to the transactions of primary dealers and the institutions which operate in the secondary market. The Committee bears the opinion that it is opportune to formulate new laws in that regard.
- Similarly another important point to be noted in regard to this bond issue is that not only one officer but also all the officers connected to this process should be held responsible for it individually or collectively. The Deputy Debt Superintendent



Mr. A.Z.M. Azim has mentioned in his evidence that the aforesaid loss has been caused by a singular decision of one individual.

- The evidence revealed in the investigation has created doubts about the extent to which the persons who know the confidential facts with regard to the bond trade within the Central Bank keep that information as confidential. Not only the primary dealers who have connections to the bond auction but also other external persons were aware of the facts related to the incidents that took place on 27.02.2015 and an employee of the Central Bank has made a request for bonds that cost Rs 7.5 lacs and according to the conversations he has had with the other employees in the Central Bank revealed that information that is considered to be confidential has been spread among many people. Special investigation should be conducted to find out the officers who released such information and whether each of those officers were responsible for that. To find out that information the digital foot prints of the officers of the Central Bank should be checked. That step should be taken to ensure the credibility of the Central Bank with regard to the issuing of treasury bonds in the future and with regard to the incident that occurred in the past.
- Private dealers have earned profits due to the leaking out of inside information. There is reasonable doubt that the Perpetual Treasuries received such information.
- The observation of the Committee is that the Primary dealers, certain officials of the Central bank, the Employees Provident fund, and certain officials of the banks including Bank of Ceylon, have engaged in malpractices, working as a rogue ring in order to earn undue profits within the bond issuing process. Unless the measures to prevent this situation are taken immediately, the country experiencing losses, is unavoidable, no matter the bond process is carried out by way of direct placement or auction system. Accordingly, once the measures are taken to rectify the faults in time to come, both direct placement and the auction system should be taken in to consideration.
- In the morning session on 27.02.2015, due to the difference maintained in order to regulate the Interest rates which was termed as 3rd rule, the interest rate in the market increased from 5% to 6.5%, recording an increase of 1.5%. This is a fact that effects seriously on market interest rates. These information was publicized in the evening. That is after the disputed auction. If those information had been made available for all primary dealers prior to the auction, they could have had a level playing ground and this issue wouldn't have surfaced.
- All the primary dealers, could have had access to the information, provided the decision that had been taken to purchase sovereign bonds to the value of USD 3 billion on the date of 29.03.2016, had been notified to the dealers, rather than notifying it subsequent to the auction. If so, possibly, the interest rates could have had taken a low rate.

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- Obtaining Rs. 10 billion when the auction is held for 1 billion has been subject to criticism. The reason for that was the idea that other primary dealers except for the Perpetual Treasuries did not expect such a situation. If the other primary dealers were aware of that situation there could have been a more fair competition. Recommendations to prevent such a situation has been included in the recommendation part of this report. Accordingly, the tender board is also responsible for the problem that created by obtaining an unexpectedly higher amount of money compared to the amount that has been mentioned in the advertisement.

As to how the Central Bank supplied money directly to the Perpetual Treasuries since the Perpetual Treasuries did not have the money to pay for the bonds obtained by them in the auction held on 29.03.2016 has no proper explanation. There is no submission from the Central Bank about that transaction. The Perpetual Treasuries who purchased bonds that cost Rs. 29 billion at the auction on 29.03.2016 has obtained a loan from the Central Bank at a low interest rate. It has been observed that the Perpetual Treasuries has obtained some undue advantage from this process. This specific fact should be investigated and those who were responsible for that should be identified and the loss they incurred should be calculated and it should be charged from the persons who are responsible for this.

The Committee accepts and approves all recommendations and conclusions of the Auditor General and submits to Parliament to take action accordingly

## **11. General recommendations of the Committee**

In the issuing of Bonds by the Central Bank of Sri Lanka in 2015 and 2016, the Committee observes that evidence or facts have surfaced before the Committee, which are likely to cause reasonable suspicion that the former Governor of the Central Bank, Mr Arjuna Mahendran has made an intervention and influenced at the issuing of bonds at the transactions held on 27 February 2015.

The Committee observed that at the investigation and examination of evidence conducted by the Committee, evidence or facts, likely to cause reasonable suspicion that certain transactions lack minimum transparency and that the manner in which the Central bank acted at these transactions has resulted in its credibility being eroded, have surfaced before the Committee.

Further, the Committee observes that one institution, Perpetual Treasuries out of the primary dealers has made enormous financial dividends through the bond transactions that have taken place during that period.

Therefore, -

The Committee emphasizes that parliament should directly intervene to,

- Recommend punishments or other orders that should be imposed against the other officials of the Central Bank and institutions so responsible for these transactions.
- While it is recommended that the loss incurred by the government and the general public as a result of those irregular activities should be recovered from those persons or institutions, the Committee emphasizes that necessary legal actions should be initiated against them
- Oversee and ensure that the recommended punishments and orders are implemented to the letters and do the necessary follow up
- Implement all steps and checks and balances that should necessarily be taken to ensure such activities will not recur in future
- Oversee and ensure that such checks and balances are enforced by the Central Bank in the proper manner and do the necessary follow up as it is the basic responsibility of Parliament in regard to financial control.

The Committee emphatically recommended that it is the responsibility of the Parliament to recover all the losses incurred by it through the above activities and act under the prevailing laws.

Also,

the Committee also recommended that the central bank of Sri Lanka and its affiliated institutions should assure parliament that steps will be taken to prevent the recurrence of such a situation in future by establishing suitable mechanisms in them.

01. Since action taken by officers of the Central Bank has paved way for Perpetual Treasuries to earn an undue advantage as an individual organization, and since action taken by Perpetual Treasuries also were carried out with the objective of utilizing the advantage given to them, it poses a gravely detrimental effect on the transparency and credibility of fiscal management of the Central Bank. Therefore, it is recommended that an extensive investigation be carried out in this regard by a recognized institution with legal authority and that action be taken to prevent the repetition of similar situations in future.
02. The Committee recommends that priority be given to state financial institutions which are able to fulfill urgent financial requirements of the government when sourcing funds required for the country through the process of issuing bonds and recommends that clauses to provide for the above be inserted into the Operations Manual of the Central Bank and other relevant documents.
03. Perpetual Treasuries, which is the institution involved in the bond issue in question, has earned exorbitant profit within a very short span of time, hence, it is necessary to investigate the aforesaid process of profit earning by a competent mechanism and it is the firm belief of the Committee that ascertaining immediately whether their action has resulted in any financial loss to the Central Bank and the Government is the responsibility of the Central Bank.
04. Establishment of a mechanism to conduct post-analysis of the market activities of primary dealers and functioning of the secondary market with the intervention of the Ministry of Finance is recommended to prevent occurrence of similar financial irregularities in future. Then, the Ministry of Finance too will be able to carry out follow-up activities on action by the Central Bank to source funds for financial requirements of the government.

05. Operations Manual of the Public Debt Management Department which has not been updated up to now, should be updated without delay and it is further recommended that provisions to give priority to capable state financial organizations when sourcing funds through bonds to fulfill requirements of the government be inserted into it.
06. Mr. Arjun Mahendran is directly responsible for the bond transaction in 2015-2016 and taking legal action against him and other relevant officers as well as recovering from him the loss incurred is recommended.
07. It is recommended that a mechanism be established to maintain transparency in such transactions and to safeguard credibility of the Central Bank.

The Committee believes that it is a key responsibility of the Committee to present all documents, details and evidence (despite the fact that some of those details are said to be sensitive) to the august assembly which is vested with the total control of state finances in terms of Article 148 of the Constitution of the Democratic socialist republic of Sri Lanka.

On the basis of the aforementioned responsibilities, this report comprising of following recommendations is submitted to Parliament and it is the recommendation of this Committee that an open discussion regarding the report be carried out in Parliament after the report is submitted.



## APPENDIX “ D “

### All Voice Recording Transcripts of Mr. K. Palisena

**Marking: C 264**

**File Serial No.: 120083**

Participations – Kasun Palisena ( K P )

Kavin Karunamoorthi ( K K )

#### Transcript

- KK : දැක්කෞ මවං ආ . සල්ලිකාරයෝ අපි දැන . හා
- KP : ආ ඔව් මවං නැත්නම්. කොච්චර ආඩම්බරද අපිට උඹ වගේ යාලුවෝ ඉන්න එක.
- KK : ඒකනේ මවං
- KP : මේ අරුට twenty five ධනුකට twenty five එක offer කරනවා ද twelve වලට 500 ක් 12.0250
- KK : මොකක්ද 0250 ? .
- KP : twelve point two zero two five zero වලට five hundred offer කරනවාද ධනුකට
- KK : zero two five zero
- KP : Yeah Twelve zero two five zero
- KK : හා හා . උඹ මට three වලට ද දෙන්නේ.
- KP : ඔව් three වලට කමක් නැහැනේ උඹට
- KK : භ්ම් භ්ම් කීයක් 500 ක්ද
- KP : 500 ඤ
- KK : හා කොහෙද ඉන්නේ ඔය බුරුවා . ලයින් එකේ ඉන්නවාද නැත්නම්

KP : ඔව් ඉන්නවා ඉන්නවා. උඹ ඉන්නව . ඉන්නවා නැත්නම් උඹ mobile එකෙන් ගනිං

KK : හරි ඕකේ.

KP : තව එකක් තියෙනවා මං උඹට කියන්න . පස්සේ ආ මේ අරු නවීන්ගේ එක . ආ..... ඔයා ඕක බලලා කියන්න කෝ මං ඊට පස්සේ නවීන්ගේ එක කියන්න .

KK : හා ඒකත් කියපන් කෝ උඹ ආයෙත් call කරොත්

KP : ෆෝට් ටු වලට තර්ට් එක 200 යි.

KK : ඔහොම ඉන්න ඔහොම ඉන්න. උඹ ආයේ call කරයි. ඒකයි සමහරක් විදි . ආ මේ මුට Tom එකේ මුට දෙන්න පුළුවන්ද උඹට

KP : පොඩ්ඩක් ඉන්න. ටුවෙන්ට් ගයු Tom එකේ කවීන්ට විකුණන්න පුළුවන් අපිට. කවීන්ට දෙන්න පුළුවන්ද අපිට.

KK : එතකොට තේරෙන්නේ නෑ නේද ? නිකං

- පසුබිමේ සංවාදයක් :-
1. කවීන්ගෙන් එනවා අපිට Tom එකේ
  2. What's the price ?
  3. අද කරපු එක එන්නේ Tom එකේ

KP : ආ ...උඹ දැන් අපිට Tom එකේ එන ටික ඒක එහෙමම දෙන්නද උඹට . ඒක අපි රිජ්ලේස් කරන්නම් වෙන මොනවා හරි ඉතුරු ටික.

KK : හා උඹට ඕන නම් ඒ rate එකට තියාගෙන දෙන්න පුළුව

KP : පොඩ්ඩක් හිටපන් . පොඩ්ඩක් හිටපන් කවීන් . ගනින් කටට ඇවිල්ලා මගේ

**(another conversation )**

KP : හලෝ yeah yeah .yes yes ඕකේ. ඕකේ ,බ්බ් , ඕකේ මොකක්ද

KK : අනිත් එක කියන්

KP : මොකක්ද අනිත් එක



KK : ඇයි යකෝ නවීන්ගේ එක තියෙනවා කිව්වේ. හලෝ  
හලෝ .

KP : ආ.....

KK : අනිත් එ:

KP : සොරි මවං මොකක්ද?

KK : අනිත් එ:

KP : මොකක්ද මවං උඹට කිව්වේ 30 and 42 ද ?

KK : No no you only told me 25 , 25 at 0250 you didn't tell me  
අනිත් එක

KP : උඹ මේක offer කරලා වරෙන්කෝ . මම නවීන්ගේ එක  
දැන් කියන්න . උඹ ඕක කරලා කෝල් එකක් දීපන්නෝ

KK : Ok bye

----- end -----

**Marking: C238 B - VR1**

**File Serial No.: 120132**

Participants 1. Kasun Palisena ( KP )

2. Kaveen Karunamoorthi ( KK )

**Transcript**

KK : yes .....

KP : මේ අරුට offer කලාද නවීන්ට

KK : මොනවාද?

KP : thirty at forty two , twenty eight at thirty five

KK : thirty eight . How much

KP : two hundred each  
KK : අ ..... value  
KP : value spot උඹට ඕන දවසක් දාපෑ . Spot or ඉස්සරහට ඕන දවසක  
KK : Ok  
KP : bye bye

-----End-----

**Marking: C238 B - VR 2**

**File Serial No.: 123313**

Participants 1. Kasun Palisena ( KP )  
2. Kaveen Karunamoorthi ( KK )

### **Transcript**

KK : හලෝ  
KP : හලෝ . Bro මේ උඹ නවීන්ට කථා කරනවාද 200 ක් at five zero  
KK : මොකද කොල්ලෝ අරකද?  
KP : thirty එක 200 ක් at five zero  
KK : Ok Ok Ok පුත: Ok  
KP : Ok Bro

KK : Ok මම .  
 KP : Ok ඔයාට මේ ඔයාට ඕන නම් value forward කරගන්න so you know .  
 KK : හරි  
 KP : ..... මේ deal එක දාමු කාගෙන් හරි ඔයා කරලා කියන්නකෝ  
 KK : ආ මේ එනවා line එකේ Ok  
 KP : Ok bye.

----- end -----

**Marking: C238 B – VR3**

**File Serial No: 134981**

Participations – Kasun Palisena ( K P )

Kavin Karunamurthi ( K K )

**Transcript**

KK : හෙලෝ  
 KP : හෙලෝ can talk  
 KK : පුළුවන් කියන .  
 KP : මට උඹ කියන්න ඕනෙ . උඹ කවුද අපේ finance ටයි  
 KK : හා  
 KP : අනිත් ඒකාටයි  
 KK : හා  
 KP : Switch කරපු total amount එක කියන්න පුළුවන්ද . මේ අප්‍රේල් පළවෙනිදා ඉදන් අද වෙනකන්  
 KK : ආ අප්‍රේල් පළවෙනිදා ..... පුළුවන් පුළුවන්

KP : ආ  
 KK : පුළුවන්  
 KP : this is not for them. this is something you, for you that's why හරි ගාන කියපෑ .  
 KK : පිස්සුද බං  
 KP : උඹ කියපන්කො  
 KK : හා හා  
 KP : Ok bye

**Marking No: C 238 A – VR 4**

**File Serial No.: 63840**

Participations – Kasun Palisena ( K P )

Sachith Devathanthri (SD )

**Transcript**

KP : සචින් අපේ අවුට් ගොයින් නම්බර්ස් සමහර වෙලාවට වැදිලා තිබුනේ නැහැ රෙකෝඩින් වල .  
 SD : .....  
 KP : නැහැ නැහැ අපි එළියේ කෝල් ගන්නකොට වදිනවාද ?  
 SD : .....  
 KP : දානවාද? ඒක පොඩ්ඩක් බලන්න මවං ආ ... දැක්කනේ උප දිගට හිතුවේම නැති එකක් උන් ඇවිල්ලා වෙක් කෙරුවේ

-----

**Marking: C275**

**File Serial No: 63829**

Participations – 1. Kasun palisena ( K P )

2. Kavin Karunamurthi ( K K )

**Transcript**

Singing

KK : හෙලෝ

KP : හෙලෝ

KK : මේ හරි තුන හමාරක් දෙනවාද එහෙනම්

KP : (Singing ) තුන හමාරක් ඉල්ලන .ඕවා Friday ද?

KK : anything , when can you give me

KP : බැහැනේ ඕක දැන් . හතරක් දීලා තියෙනවානේ . හතර

mature වෙන්නේ ඒ බිලියන් එක එදා ඉදන් දෙන්නද? එහෙනම්. ඒ බිලියන් එක එදා ඉදන් අනිත් එක හෙට ඉදන් දෙන්නම්. දෙක හමාරක්

KK : හා හරි

KP : අවුලක් නැද්ද එහෙම

KK : හරි Do it ආ නෝ පොබ්ලම් සර්

KP : Two weeks at 7 ½

KK : හම් , උඹ හිතුවාද මේ මේ මවං .....

KR : 7 ½ ද

KK : I don't have thirty ..... මවං

KP : මේ උඹට පොඩි බඩුවක් තියෙනවා. මම ඔබ්බේ එකට එව්වොත් අවුලක් ?

KK : මොනවද , මේ මේ කසුන්

KP : රත්තරන් ඇට දෙකක

KK : හරි . මේ මවං . දැන් අහන්න( .

KP : මම ඔබ්බේ එකට එවන්නම්. අවුල: නැහැනේ.

KK : මොකක්ද?

KP : පොඩි gift එකක්

KK : මේ එපා එපා පිස්සුද?

KP : අනේ ..... නැතුව හිටපු බ්‍ර . මම ..... එවනවා ඔබ්බේ එකට bye.

KK : යකෝ මේක මාර කේස්නේ ඔයි.

KP : මේ

KK : හරි මේ මවං හරිනේ එහෙනම්.

KP : එහෙනම් billion over 4<sup>th</sup> 2 and half over tom,

KK : Tom

KP : That is third

KK : Yeah

KP : හරි confirm . at 6% thank you sir , මේ අඩෝ උඹ දන්නවා ? උන් ඔක්කෝම රෙකෝඩින් වෙක්කරලා උඹේ එකමයි වෙක් කෙරුවේ සෙන්ට්‍රල් බැංකුවෙන. එදා අර onsite ඇවිල්ලා මේ මංකුෂ් හරුපත් කිව්ව් . අළුත් එකක් කරමුද , අළුත් එකක් කලා කරගමුද

දැන . උන් මේක වෙක් කලොත් එහෙම උන් කුණු හරප කිව්වා කියලා බයවෙයි. අවුලක් නැහැ දැන .

KK : සිරාවටම

KP : ඔව් බං මේ මොකක්ද උඹලා අපිට Lend කරපු එකක් . 6.60

වලට five hundred million lend කරලා තිබ්බා මොකක්ද මේ සැප්තැම්බර් මාසේ රෙකොඩින් වෙක් කරන කොට ඒකම බැලුවා උන්.

KK : අම්මට හුද් .

KP : මම හිතුවා අපි දෙන්නා කුණු හරපයක් වත් කියවනවා.

එක්කෝ කවුරු හරි ගැනියෙක් ගැන කලා කරනවා .මොනවා හරි තියෙයි කියලා වෙච්ල වෙච්ලා ඇහුවේ ඒක මොකුත් තිබ්බේ නැහැ හොඳට ලස්සනට කලා කරලා තිබ්බා ඒකේ.

KK : ආ එහෙනම් තියපන් මම ආයේ එන්නම්. මේක මාර කේස් එකක් නේ.

KP : ඕකේ බායි.

KK : ඕකේ බායි.

----- end -----

**Marking: C 277**

**File Serial No.: 86433**



Participants : 01. Kasun Palisena (KP)

02. Arjun Alloysius (AA)

Background another conversation

Can hear only Mr. Kasun Palisenas voice , starting from time duration 01.24

### Transcript

KP : Hello

AA : -----

KP : Yes , Arjun

AA : -----

KP : OK we are using new charlie new guy to bring the 26 down. Down OK

AA : -----

KP : OK

AA : -----

KP : OK Arjun

AA : -----

KP : sure

AA : -----

KP : OK

AA : -----

KP : We are using the new guy the found guy to do to bring the 26 down ,  
so this eventually that will also come down will with that , We will  
try to do something there

AA : -----

KP : Little Jonie , Little Jonie , yeah

AA : -----

KP : OK OK  
AA : -----  
KP : No no ,this is little Jonies the Narahenpita guy Arjun  
AA : -----  
KP : He is night  
AA : -----  
KP : OK  
AA : -----  
KP : OK

----- end of conversation -----

**Marking: C 238 – VR 6**

**File Serial No.: 155660**

Participants : Kasun Palisena (KP)  
Surani Neangoda (SN)  
Telephone Operator (TO)

**Transcript**

To : Hello.....

KP : Hi, Kasun hear is Surani in

To : Yes,

SN : Hello.....

KP : Hi, Surani , Kasun,

SN : Yes Kasun,

KP : Surani that Mendis 1 Million 75 thousand been asked by Choliya and he being asking and he is inquiring into it. Can you instruct what to do today.

SN : Arjun has to say ' no Kasun. We can't talk about these things.

KP : Exactly. So, shall I tell him then. I will him what to tell.

SN : Tell Choliya, tell Choliya. Get ratification from Arjun.

KP : I'm not tell anything. He said he sent a mail. I'll tell Arjun to talk to him then.

SN : Yes... yes....

KP : O.K.

SN : Better no, better

KP : Thanks.

SN : O.K. Bye. -----end -----

**Marking: C238 – VR 7**

**File Serial No.: Choliya 167814 ( 2 )**

Participants : 1. Kasun Palisena (KP)

## 2. Surani Neangoda (SN)

### Transcript

- KP : Helloo.....yes.
- SN : Surani
- KP : Yes, Surani, Hai.
- SN : Sorry Kasun. Are you giving me the one seventy five from you or am I to ask from some one else ?
- KP : We can give the one seventy five but there's a small dispute about the account there. So the , even today that Choliya came and met us.
- SN : O.K.
- KP : And he is saying he is not aware of any transactions. They are disowning all transactions done for Mendis. Which we cannot.....
- SN : Choliya is Mendis no
- KP : Sorry.
- SN : Choliya is Mendis no
- KP : Yes. That's why. So, we can't go on doing that if they are disowning the transactions. And they are not even signing the mandate.
- SN : O.K.
- KP : So, that was a small problem, there
- SN : Right. That means I should not ask from you for it. From now onwards.
- KP : Yes. Till it's resolved, no. We might not be able to give it to you.
- SN : O.K. No problem Kasun. I know who is going to give me. Then I can ..... to me.
- KP : (LAUGHTER)
- KP : O.K. Madam.

SN: If it is not you ,fine. Thank you.

KP : Thank you.

SN : Right. O.K.

----- end -----

**Marking: C238 – VR 8**

**File Serial No.: 120189**

Participants 1. Kasun Palisena ( KP )

## 2. Kaveen Karunamoorthi ( KK )

### Transcript

- KK : හලෝ
- KP : value twentieth දැම්මා එතකොට හරිනේ.
- KK : හා
- KP : මේ fifteen five thirty ,at twelve point four five
- KK : four five ද
- KP : ඔව්. four five five zero එතකොට උඹට එනවා
- KK : හා
- KP : මේ value twentieth to ධනුක .
- KK : අරක, twenty eight
- KP : twenty eight නැහැ ඒක කලේ නැහැ
- KK : Ok Ok
- KP : උඹ දැන් ධනුක 500 million offer කරනවාද මේක
- KK : Ok Ok , two hundred නෙමෙයිද ?
- KP : නෑ නෑ මේ ධනුක මවං
- KK : හා sorry sorry මම හිතුවා අරු කියල
- KP : five hundred million at twelve point four five five zero you are selling to SLIC
- KK : Ok Ok Ok
- KP : Ok value twentieth ආ දැන් කලා කරනවාද?
- KK : twelve point four five five zero Ok
- KP : twelve point four five five zero
- KK : Ok Ok
- KP : Ok bye

KK : මං භිතුවා අනිත් එකා කියලා, sorry

KP : Ok bye.

KK : bye bye

----- end -----

**Marking: C238 – VR 12**

**File Serial No.: 135717**

Participants :- 01. Kasun Palisena (KP)

02. Gajan Dsvarajah (GD)

**Transcript**



GD : Hello

KP : මේ 1145400 deal එක තියෙන්නේ Little jonie ගේ එක නේද ?

GD : 1145 ?

KP : පොඩ්ඩක් ඉන්න

KP : Cash cheque එකක් දැම්ම. capital එකට

GD : ආ එයාගේ එයාගේ තමයි , ඔව් එයාගේ තමයි

KP : ඒක අද දැම්මනේ සල්ලි

GD : ඔව් සල්ලි දැම්ම

KP : ඒකනේ , හරි එදාම දැම්මානේ

GD : එදාම cheque එක දුන්නා ඊයේ එයා ගිහිල්ලා දුන්නා මං හිතන්නේ ඒක

KP : හරි OK

GD : හරි

.....

**Marking: C238 – VR 13**

**FILE Serial No.: 111064.WAV**

**PARTICIPANTS: 01.** Kasun Palisena (KP), Originator  
 02. Arjun Aloysius (AA), Recipient

**TRANSCRIPT**

[00:28]

Operator Recording: Mobitel user you are calling is currently roaming internationally. Please continue to hold if you wish to be connected.

[00:53]

AA: Hi.

KP: Hi Arjun.

AA: Hi. So yesterday, there was a meeting that was called

KP: OK.

AA: With all the state banks, and an instruction had gone that the state banks bid low.

KP: OK.

AA: OK? So I found out from our friend that NSB and other friend at BoC. And they haven't given a specification of what rate to them, but they want to bill low.

KP: Then there were other things. I'll give you a quick background. The other things that were mentioned was that basically, a proposition to take the S.R.R. out. OK? And certain other propositions basically to drastically bring the rates down after the hundred and twenty six billion is raised. The actual number is one twenty two, not one twenty six. Right?

KP: OK.

AA: So, that's the status. Now, there are few scenarios that's going to play out. Scenario one, the entire market is expecting a rate hike today. That is not going to take place. OK?

KP: Yeah.

[2:00]

AA: Right. So our friends from the department are telling us, if you can why don't you'll bid more today as opposed to Thursday, because Thursday interest is going to be huge.

KP: So today, is, whatever we are doing we should do today, Arjun. Not, shouldn't wait for Thursday.

AA: You're also supporting the same view as everybody else, right?

KP: Yes, yes.

AA: Excellent, excellent. So, I'm also on the same page with you because there is a two tone disadvantage after we bid today. One is the entire market is going to know that we're heavy in the market again.

KP: Yeah.

AA: And the second is the rate cut euphoria that they were going ahead that that rate cut is not going to be there. Right?

KP: Yeah.

AA: So, basically we are going to have severe competition on Thursday. Severe competition. Not small competition, severe competition.

KP: Yeah.

AA: Right. I have a magical sixty billion in my mind, which I want to do, because this is a once in a lifetime opportunity with regards to rates and you agreed with the same yesterday as well. OK.

KP: Yeah.

AA: So I have a sixty billion that I have and I am very confident that the government will do everything in their power to drastically bring the rates down because there is a lack of requirement as well.

KP: OK.

[3:10]

AA: Only disadvantage that we face is that Templeton is continuously selling. I am a little concerned about Templeton selling. That is one of the concerns that I have but that also there is a plan to mop them up.

KP: OK. OK.

AA: OK. There is a plan to mop them up and I'm, game on. OK?

KP: Yeah. Yeah.

AA: Now, today, we are going to have relatively very much lesser competition.

KP: Yeah.

[3:32]

AA: So our friend, our, our, the friend that we have, are telling us bill forty today, and twenty on Thursday, and worst case even if we don't get ten on Thursday you can mop ten in the secondary market, which is exactly what your strategy is as well.

KP: Yes.

AA: You told me the same thing, that you want to buy something in the secondary market. However the secondary market you're not going to get a great rate on secondary. You're going to get, you will not be able to get the same rate that you're getting in the primaries as secondaries because you're on a big drop.

KP: Yeah.

AA: OK? I'm talking about a fifty to a hundred bip drop, once we get, at the rate we're trying to bid at today. OK?

KP: OK.

[4:08]

AA: Right, now the game plan is, now you can interrupt me anytime you want, Kasun. Game plan is there is a twenty five on offer today. There is a twenty six on offer today. There is a thirty on offer today.

KP: Yeah.

AA: And there is a low four year. We're not interested in that four year.

KP: OK.

AA: We're only interested in twenty five, twenty six, thirty.

KP: OK.

AA: OK? We have three scenarios here. One, two, three. First scenario is we bill fifteen on the thirty. Fifteen billion. At the best rate, and I've already got a clearance on the cut off of that.

KP: OK.

AA: We build, uh, seven billion on twenty six or eight billion on twenty six. Which ever you like.

KP: OK.

AA: I'll leave that to you. And, so if we're building seven on twenty six then we build eight on twenty five or if we build eight on twenty six we bid seven on twenty five. Right?

KP: OK.

AA: That's option number one to come up with a magical thirty.

KP: OK.

AA: Then, I have one, Option B is we build seventeen on the thirty, seventeen billion on the thirty..

KP: OK.

AA: Nine billion on the twenty six...

KP: OK.

AA: And ten billion on the twenty five. Or if you want to do it the other way around, if you're doing a seven and eight, then basically two billion, two billion more, so it's a total of six billion more.

KP: Seventeen and six. OK.

AA: It's a total of six billion more than the original Option A of thirty which comes to thirty six billion.

KP: Seventeen and nine and eight?

AA: Seventeen, nine and ten.

KP: Ten. OK.

[5:51]

AA: OK? Option three. Option three is what they are talking as to build is forty billion. The other four billion I leave it to your imagination to do that if you want. Your call.

KP: OK.

AA: I'll leave it to you'll. Then, do you want to build thirty, thirty six or forty? What do you want to do? I'll leave to you. I'll come back to the rates.

KP: Today we shouldn't, leave any other day as [inaudible]. Whatever we are doing we should do it today. We shouldn't wait for tomorrow.

AA: So you want to go for forty today?

KP: Yeah, why if we are going to buy forty, then we should do that today not tomorrow. Or tomorrow day after.

AA: Right. OK. So we'll go for the forty today. We'll go for the forty today if that's what you feel we'll go for the forty today. Then, the other twenty, only thing that is going to take place is the other tenors that are going to come out on Thursday is most probably a seven, a twelve and a twenty year. But we don't know whether the twenty year will come out or not. If a twenty year comes out I definitely want to take ten billion on the twenty year.

KP: OK.

AA: Even if I have to bid low I'll take ten billion on the twenty year. OK?

KP: OK.

[7:02]

AA: Right. The rate. The all important rate. Shall we start with the fifteens?

KP: OK.

AA: I'll give you the exact rate. My, I'll, Uh, they're bringing the rate down. I wrote it and kept it at home. I'll tell it to you in a few minutes. But, on average, but the rate is that fourteen eighty or fourteen ninety if you put a magical ten billion one shot.

KP: Fourteen ninety?

AA: From Pan Asia Bank. Fourteen ninety or fourteen eighty, I leave that to your imagination. OK?

KP: OK.

AA: Right. Pan Asia one shot. I don't know whether Pan Asia will give it. If Pan Asia doesn't give it to us as one shot then you put five billion which they've already agreed and they've given us and the other five billion you do through Perpetual, from fourteen seventy seven levels upwards. Mix and match. You do a mix and match. Fourteen seventy seven

or fourteen seventy eight levels or even, yeah, fourteen seventy nine levels upwards. OK?

KP: OK.

AA: That is five and five. Then the other five billion, the other five billion I will give you the rate at what to bid at. But this ten you take it as a given. This is what how you have to bid the fifteen year, this ten.

KP: OK.

AA: Five billion fourteen ninety. And five billion at, five billion Perpetual if they don't, if Pan Asia allows us to do one shot ten then you do one shot ten.

KP: OK.

AA: OK? But your average needs to be a superstar average. I wanted a fifteen average. You're not going to achieve a fifteen average but at least the entire portfolio average this time should be at least fourteen sixty. That should be our plan.

KP: OK.

AA: OK? Right. One disadvantage that we are facing is that the private sector is going to be allowed to bid between thirteen half and fourteen half.

[Abrupt End of Conversation]

**Marking: C238 – VR 14**

**FILE NAME: 111088.WAV**

**PARTICIPANTS:01.**Kasun Palisena (KP), Originator

02.Arjun Aloysius (AA), Recipient

**TRANSCRIPT**



[00:05]

Operator Recording: User you are calling is currently roaming internationally. Please continue to hold if you wish to be connected.

[00:27]

AA: Kasun?

KP: Yes, Arjun.

AA: Hi. So, I just got the EPF rates.

KP: Yeah.

AA: EPF is putting 15 billion.

KP: OK.

AA: They are putting 2026 at thirteen fifty. 2030 they are putting five... sorry 2026 thirteen fifty five billion. 2030 thirteen sixty five five billion, and thirteen seventy five billion. OK?

KP: OK.

AA: Right, now basically the go ahead is that the government has said that they're going to state funds, will bid between maybe thirteen thirteen half, and the private funds can go from thirteen fifty to fourteen fifty guaranteed.

KP: OK.

AA: Any bid between thirteen fifty and fourteen fifty the will accept. OK?

KP: OK.

AA: This is the unofficial word that I got this morning.

KP: OK.

AA: Beyond fourteen fifty its going to be tough but they will most probably accept it. So you have to make a very very very smart call, because as what we mentioned yesterday, nobody, this is a bonus. This is a gift that has been given to us. Nobody has, nobody ever thought they, if somebody told you a month ago

rates are going to twenty you would have thought this is talking rubbish.

[1:37]

KP: Yeah.

AA: OK. So this is an unbelievable gift so its, I, I'm a person who may, miss, by, you know, a this thing, but you know you never miss it. You, you're always pinpoint accurate so, so you make the call. I'll only give you the direction. I'll only give you the guidance. Right?

KP: OK.

AA: OK. So you decide whether you want to bid 30 billion, 35 or 40. That's your call.

KP: OK.

AA: The, according to our friends from the powerful places the more that we bid the better it is.

KP: OK.

AA: So I'll leave that to you. The guidance for bidding, two thousand and thirty. We'll start with two thousand and thirty. He wants us to go from thirteen fifty to fourteen fifty, five billion.

KP: OK.

AA: You bid it any way you want to bid it.

KP: OK.

AA: But weight, uh, weight it more towards the fourteen ranges as opposed to thirteen fifty. So thirteen fifty small, small, small, small, then go high, OK?

KP: OK.

AA: Fourteen fifty or fourteen ninety you call, that again your call, ten billion.

KP: OK.

[2:47]

AA: But one shot either a five or a ten should be at a higher rate from PABC. If they can do ten, well, good for us. If they can't do ten, well, tell us to give us a five. And if they do us a five and you do the deal at fourteen ninety or fourteen eighty, you decide, either way it will be accepted.

KP: Arjun, there's already ninety billion then. Sorry, uh, twenty billion there.

AA: No.

KP: On the thirty year. No, two thousand and thirty, yeah.

AA: Thirteen fifteen, thirteen fifty to fourteen fifty, five billion.

KP: OK.

AA: And, fourteen eighty or fourteen ninety-one shot ten billion.

KP: Ah, OK. Fourteen nine.

[3:26]

AA: That's a, that's a grand total of fifteen billion. But if we don't get a one shot five billion, uh, ten billion from them then we do five billion under PABC and five billion under Perpetual at maybe ten basis points lower across the range. So that's, so what I'm trying to say is that you're, the total we are bidding is fifteen billion for the two thousand and thirty.

KP: OK.

AA: OK? So one shot ten we'll do at fourteen eighty or fourteen ninety.

KP: OK.

AA: But otherwise what we do is we'll do five billion one shot another five billion say we bid at fourteen ninety hypothetically then we'll bid fourteen seventy-seven up to fourteen eighty eight Perpetual.

KP: OK.

AA: OK? So a grand total of fifteen billion.

KP: OK.

AA: If you want to be a little more adventurous put a two or three billion at your discretion at whatever rate between fourteen half to fourteen ninety. If you want to go more aggressive today.

KP: OK.

AA: OK? Clear?

KP: Clear.

[4:35]

AA: Then we are doing two thousand and twenty-six. We're bidding eight to ten billion.

KP: OK.

AA: Eight to ten billion. We start off three billion between thirteen forty and fourteen fifty.

KP: Thirteen forty to fifty.

AA: Yeah, so the lower from thirteen level its lower and we load up on the fourteen level.

KP: Is the thirteen forty to fifty?

AA: Thirteen forty to fourteen fifty.

KP: Fourteen fifty. OK.

AA: Yes.

KP: OK.

AA: OK?

KP: OK.

AA: Thirteen forty to fourteen fifty. Right?

KP: Yeah.

AA: Then we have five billion, two plus three..

KP: OK.

AA: Two billion between fourteen sixty and fourteen sixty five.

KP: OK.

AA: And a three billion at fourteen sixty two to fourteen sixty seven.

KP: OK.

AA: Actually, you're... Wrong, wrong, wrong, wrong. The three billion should be one shot. Fourteen seventy or fourteen sixty five. One shot three billion. For the two thousand twenty six.

KP: Sixty to seventy five range, three billion one shot?

AA: No, no, no, no, no. Like the way you're doing the fourteen eighty or fourteen ninety for the, uh, thirty year five billion or ten billion, this also that block big number should be one shot three billion. The, the highest we're bidding should be one shot three billion either through Pan Asia or through Perpetual it doesn't matter but ideally through Pan Asia. So, for example, fourteen seventy we do three billion, or fourteen sixty five we do three billion. I leave it to you.

KP: Four... Pan Asia might not be able to do it, Arjun, if they bid, uh, the total number they can do so far is five. They said they'll come back whether they can increase.

AA: OK, Fine. So then we'll do it under Perpetual.

KP: Yeah.

AA: So one shot, two thousand and twenty six, one shot, three billion at fourteen sixty five or fourteen seventy, you decide. OK?

KP: OK.

AA: Then the other two billion, we'll do between fourteen sixty five and fourteen sixty eight. Other two billion. That you can divide hundred hundred [inaudible] two hundred two hundred like that.

[6:56]

KP: Sixty five to sixty eight.

AA: Yeah.

KP: OK.

AA: Right? But one shot three billion at fourteen seventy then one shot two billion you divide between this thing and we do another three billion between thirteen forty and fourteen fifty. Got it?

KP: Yeah.

AA: OK? So that's a grand total of eight. And if you want to bid another two billion or three billion you do it at your discretion whatever you want to do it. Whatever you want to bid.

KP: OK.

AA: Because I'm giving you now the full calculation for the thirty billion. I'm giving you a full calculation for thirty billion. If you want to go thirty five or forty you decide how you want to do it in that range.

KP: OK

AA: Then twenty five. Twenty five.

KP: OK.

AA: Twenty five we start three billion.

KP: OK.

AA: Between thirteen seventy.

KP: OK.

AA: To fourteen fifty. Three billion.

KP: OK.

AA: Four billion.

KP: OK.

AA: Two billion one shot between fourteen fifty and say fourteen sixty, or fifty five. And then two billion one shot at fourteen sixty, one big number at fourteen sixty.

KP: Two billion, again?

AA: One shot, two billion at fourteen sixty.

KP: Fourteen sixty. So all together seven there.

AA: Yeah, but if you want you can put another two or three more, depending on your discretion, on these ranges.

KP: OK.

AA: Right. Then twenty six. The twenty six, if we are bidding twenty five we are starting at thirteen seventy then we should not start twenty six there. We must put some rationale. So what do you think? Twenty six?

KP: Twenty six, start at fourteen?

AA: You want to start at fourteen? OK. Fine.

KP: Or twenty five, twenty six, both start at thirteen seventy.

AA: No. Don't put, there must be some difference so they don't think it's a this thing, there must be some difference.

KP: Thirteen eighty then?

AA: OK. Fine.

KP: Shall we repeat, Arjun, everything?

AA: So, you know the ranges. Do the needful. Now I'm going to give you a task, which you'll do in the next twenty minutes. I want the grand average of fourteen sixty to fourteen sixty five average on this thirty five to forty billion. OK?

KP: OK.

AA: You try to do that. Tell me different scenarios and come up. Now you know the guidance. Like the other day you gave me the final this thing, you decide how you want to do it. Right?

KP: OK.

AA: The risk we are facing is thirteen half to fourteen half everything will be taken.

KP: OK.



AA: The biggest risk we are facing is fourteen fifty onwards is going to be tight but most probably taken. So you decide whether you want to run that risk or whether you don't want to run that risk. That also I'll leave it to you.

KP: OK.

AA: Apart from the ten billion that we are, fifteen, is, that is a sure shot, we'll take that.

KP: OK.

AA: OK, but it's going to be a tough call. I just got an SMS from NSB, that they have, they are bidding eight billion in total, NSB. So NSB eight billion, EPF fifteen billion, you're talking about eight plus fifteen, twenty three. I don't know about the others. So I think we're very... I'm very confident that today's thirty to forty will be accepted but, you just come back on the rates. Now you know the guidance and let me know. And I would like there to be averages between fourteen fifty five and fourteen sixty five, but again I'll leave that to you. If you think it's too ambitious, ten basis points here and there I leave it to you.

KP: Can you give me fifteen minutes? I'll come back to you with numbers then.

AA: You come back to me with the average plus what your suggestions are. And also remember I'm also going to tell you, but beyond fourteen half there is a risk we may lose it. Small risk but there is a risk. I must tell you that, no?

KP: OK.

AA: Thirteen half to fourteen half everything will be accepted but apart from the fifteen year that we have got special approval. But apart from that there may be a risk. OK?

KP: OK.

AA: Right, now something else I want to share with you. This is a big auction for all of us. So think very very hard. Sometimes I go for the moon and I fall a

little shorter. You have always been realistic.  
Remember this.

KP: Yeah.

AA: So, come. We will not get a chance like this again,  
Kasun.

KP: Yes, Arjun.

AA: Anywhere between thirty and forty you make the call.  
Then we have Thursday, which we want to bid another  
twenty. If we bid forty then I want another twenty  
because I want a grand total of sixty in this run.

KP: OK.

AA: So, whatever you feel we can do on that. And then  
failing which we'll buy the rest on the secondary  
market. Come up with a strategy. We'll touch base  
again in fifteen minutes.

KP: OK, sir.

AA: Thanks.

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**Marking: C 133 E**

**File Name : C 133 20150227100041010 E**

**File type : wave file**

සහභාගීකරුවෝ :

1 කසුන් පලිසේන මහතා , PTL , ඇමතුම උත්පාදක ( ක.ප.)

2. ධර්මපාල මහතා , BOC , ඇමතුම ලබන්නා( ධ.ම. )

පිටපත්කර

- ධ.ම. : හෙලෝ හෙලෝ
- ක.ප. : හෙලෝ Mr. Dharmapala , morning
- ධ.ම. : හෙලෝ , Good morning
- ක.ප. : කසු: here
- ධ.ම. : හෙලෝ කසුන් අනේ sorry මේ call එක දැක්කා මේ busy වුනා .  
මට මේ ආපහු මේ මේ කලා කරන්න බැලුවේ .
- ක.ප. : අනේ මට විනාඩියක් දෙන්න පුළුවන්ද සර් මට පොඩි වැඩක්  
අහගන්න
- ධ.ම. : ඔව් ඔඒ
- ක.ප. : මට මේ auction bid එකක් දාගන්න පුළුවන්ද ; ඊගෙන් ඇ
- ධ.ම. : පුළුවන් පුළුවන් එව: . ඇයි ඔයගොල්ලන් දාන් නැද්ද?
- ක.ප. : කීයට කලින් කියන්න ඔනේද ?
- ධ.ම. : ඇයි ඔයගොල්ලන් දාන් නැත්තේ?
- ක.ප. : අපිත් දානවා සර් මේ මේ පොඩ්ඩක් settlement ලොකු  
ගානක් ආවොත් එහෙම මම සර්ට දාලා ..... පුළුවන
- ධ.ම. : හරි හරි මං මං කරලා දෙන්නම්. කරලා දෙන්නම්. කීයන්ද  
මට මේ
- ක.ප. : සර්ට මේ මේ කීයට කලින් කියන්න ඔනේ ?
- ධ.ම. : නෑ මට දැන් ඔයාගේ මේ මේවා confirm නම් දැනට rate එකයි  
මේ කීයන්ද ඔ bids එහෙම හදාගන්න ඔනේනේ. Manual නේ  
හදන්නේ මේවා
- ක.ප. : right මං Sir ට ටක් ගාලා email එකක් දාන්නේ ?
- ධ.ම. : හරි හරි email එකක් හ fax ආ ..... Email  
එකක් එවන්නකෝ ටක් ගාලා.

- ක.ප. : හරි සර් සර්ත් ලොකු ගානක් දානවා ඇති නේ ඕකට නේ
- ධ.ම. : නෑ බං ඔය මේ මේ Direction එකක් නැතුව කොහෙ යන්නද ?
- ක.ප. : නෑ බං කියන්නේ මං හිතුවා Sir ලා ඔක්කෝම ටික ගන්නව කියලා ඕකලේ
- ධ.ම. : ඇ මම නෙවෙන්නේ මේ EPF ඉන්නවානේ ඒකට
- ක.ප. : ආ
- ධ.ම. : ඕක 9.35 ට දුන්නා කියලා තමයි කියන්නේ . Placement basis මීට ඉස්සරලා:
- ක.ප. : මෑන් ඤ ටා කරනේ ඊයේ , ඊයේ කථා කරා
- ධ.ම. : ඔව්
- ක.ප. : කථා කරලා කිව්වා ගත්තේ . මං අවුරුදු දෙකකට පස්සේ පළවෙනි පාරට මේ public debt එක කථා කරලා ගන්න කියලා කිව්වේ
- ධ.ම. : ඔව්
- ක.ප. : මේ bond එක ගන්න 9.35 වගේ වගේ දෙනවා කියලා කිව්ව .
- ධ.ම. : ආ
- ක.ප. : මේ හෙට auction එකට එනවා නම් customers ලට කරලා කියන්න . එහෙම එහෙම කියලා ඔහොම කලේ සර් 2012 න් පස්සේ පළවෙන්න පාරට
- ධ.ම. : ඒ කියන placement offer කරපු එකද ?
- ක.ප. : නෑ මං කියන්නේ ඤ ටා කරලා මේ bond එක ගන්න auction එකට දාන්න කියලා කිව්වේ.
- ධ.ම. : හම් හම් අර යකා පිස්සු පොරක්නේ හිටියේ ඔතන. ඔය ඔක්කෝටම වැඩියේ හොඳයි මවං , මේ මේ උන්ට කථා කරන්නව බැහැනේ දැන් මේ මේ කවුද ධම්මික කියලා කියන්නේ මගේ මට අවුරුද්දක් junior නේ campus එකේ . ඌ මාත් ඒ දවස් වල හොඳටම හිතවත් නිසා මං අඩු ගානේ එහෙම එහෙම හිතවත්කමක්වත් තියාගෙන මම වැඩ කරේ

නැ. මොකද සමහර මිනිස්සු හිතාගෙන ඉන්නවා ඇති ඒවාගෙන් අපි ඒ වාගෙන් වාසි ගන්න එනවා කි.

ක.ප. : මිනිහා හැබැයි මේ හිටියානේ ඔතන නේද මේ කාලයක් ඉදන් හිටියේ

ධ.ම. : ඔව් ඔව් කාලයක් ඉදන් හිටිය . නමුත් මේ ඔයා මට එහෙනම් bids ටික එවනවාද ටක් ගාල ?

ක.ප. : මං සර්ට email එකක් දාන් .

ධ.ම. : right right right Ok Ok

ක.ප. : Ok

(ඇමතුම අවසානයයි )

**Marking No : C 133 L**

**File serial No : 21150227105121000**

Participants : Mr. Janaka ( BOC)  
Mr. Kasun Palisena ( PTL )  
Customer of BOC

**Transcript**

Janaka : හෙලෝ Dealings

Customer : Mr. Janaka

Janaka : ඔව් Mr. ....

Customer : ..... 10,000 ජ

Janaka : ඩොලර් 10,000 ක් නේ

Customer : ඔව් . ඔව්

Janaka : 132 ශී

Customer : ඔව්

Janaka : 50 ක් දෙන්න

Customer : 50 ජ  
Janaka : ඔබ . Fx 514  
Customer : 514  
Janaka : ඔබ  
Customer : Thank you

#### Another convercation

Janaka : Hello, Dealings  
Kasun : Hello . Mr. Dharmapala please  
Janaka: May I Know who is speaking Sir  
Kasun : I am Kasun. Calling from perpetual Treasuries.  
Janaka: Mr. Darmapala is not in the seat at the moment kasun  
Kasun : I am ..... He is not in the seat, is ti ?  
Janaka: Yes  
Kasun : Ok. Ok . Thank you.

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**Marking: C192B**

**File Serial No.:VR: 20151106 – 090220 – 17584 – 0112206123 – IN ( DURATION 2:22)**

Participants

1. Kaushitha Rathnaweera (KR)
2. Shashrika Karalliyadda (SK)
3. Kasun Palisena (KP)

**Transcript**

KR : Hello

Receiver: Hello

KR : Yeah Can I speak to Shashrika please ?

Receiver: Hold on

SK : Hello

KR : Sashrika

SK : Yeah Machan

KR : Macho deals වගයක් තියෙනවා නේද ?



SK : පොඩ්ඩක් ඉදපත් මවං ඩිල් නම් තියෙනවා .....

ඔව් මවං කියපන් කියපන්

KR : මේ අපේ සේල්ස් තුනක් තියෙනවා මං confirm කරන්න ?

SK : හරි කියන්නකෝ මවං

KR : මවං 15.05.30

SK : උඹලගේ උඹලගේ මේ .... උඹල අ ..... උඹලට සේල්ස් නේ .....හරි මං උඹලගෙන් සේල්ස් නේ

KR : ඔව් අපිට සේල්ස් මවං 15.5.30 We are selling to you at 1billion at 9.2550 again 15.5.30 we are selling to you 1 billing at 9.2550

SK : හරි මවං

KR : And again 15.5.30 500 million we are selling to you at 9.2550

SK : හරි මවං හරි

KR : හරිනෙ

SK : හරි මවං value ආ .....

KR : this is value today

SK : today නේ cash නේ .....

KR : yeah value cash

SK : හරි මවං හරි

KR : right මවං වුට්ටක් ඉන්න

KP : sashi

SK : yeah මවං

KP : මවං මේ Hello උඹට මට repo ටිකක් කරලා  
දෙන්න පුළුවන්ද ? උඹ ගාව සල්ලි තියෙනවාද ?

SK : මං short බං ඉන්නේ අම්බානට අද

KP : එහෙමද ?

SK : short කියන්නේ 400 ක් වගේ දැන short ඉන්නේ මවං

KP : 400 ක් මොකක්ද මවං බැංකු වලට

SK : කියපංකෝ මවං මොකද වෙන්න ඕනේ උඹට

KP : මට මේ 1738 , 1739 ඕනේ 1739 ඕනේ

SK : 39 නේ

KP : ඔව් මං අරුගෙන් උඹට දුන්නොත් එහෙම උඹට  
ඒක අරන් මට දෙන්න පුළුවන්ද ? margin  
එකක් තියාගෙන ඊයේ වගේ ?

SK : අවුලක් නෑ මවං අවුලක් ජ

KP : හරි එහෙනම් උඹ ගාව තියෙනවා උඹ අරගෙන  
මට rate එක කියනවාද ? උඹ දෙන rate එකටම  
උඹ margin එකක් තියලා මට කියෑ

SK : ආ හරි හරි මේ පොඩ්ඩක් හිටපං මවං මේ උඹ  
මේ මොකක්ද මේ වන් කියද ? මවං one seven ?

KP : one seven three nine උඹට ඕන ගානක් දාලා උඹ  
උඹ full ගානම ගනින් ඉතින් උගෙන් උඹ  
400 කුත් ඕනෙනේ

SK : හරි මවං මේ මොකක්ද මං කියන්න හිටියේ  
මේ මේක Two deals වලට උනාට කමක් නෑනේ

KP : Two days කියන්නේ

SK : Two deals වලට

KP : 1739 ද ?

SK : ඔව්

KP : ඔව් මවං Two deals නම් අපිටත් හොඳයි හි හි හි

SK : මවං one එක

KP : one billion and 739 දා ගනී

SK : මට one billion වල deal එක දන්න  
කියන්නකෝ කරොත් මවං හරි අමාරුයි

KP : ඔව් ඔව් මට තේරෙනවා මවං settle කරන්න  
ලේසියි . පොඩ් වෙන තරමට ලේසියි මවං පට පට ගාලා settle කර ගන්න  
පුළුවන්

SK : ඒකයි . හරි මවං එහෙනං one එකයි හත්සිය  
නිස් නවයයි කරමු මවං

KP : නිස් නවයයි කරමු මවං . උඹ උඹට call කරලා  
අරගෙන මට Rate එක කියනවාද ?

SK : EPF නේ ?

KP : ඔව්

SK : හරි මවං හරි හරි මං

KP : He is waiting for your call

SK : right okay මවං okay

KP : thanks Bro thanks

SK : Ok bye

KP : me, Hello Hello

( සංවාදය අවසානයයි )

**Marking: C192 A**

**File Serial No.: VR: 20160119 – 133608 – 17584 – 0112206123 – IN**

**(DURATION 0:40)**

Participants: 01.Sashrika ( S )

02.Kasun Palisena (KP)

S : Hello

KP: Brother

S : yes මම කොහොමද ?

KP: මම ඔයා deal එකක් තියෙනවා ලියා  
ගන්නවාද ? මං අනිත් එක එකක් දෙන්නං

S : හරි කියන්නකෝ මඳ

KP: ආ..... ආ ..... 01.01.41

S : 1.1.41

KP: At 10.8050

S : 8050

KP: One and a half B

S : One point five B

KP: You are buying

S : Yeah you are I am buying නේ .....

KP: Yeah

S : Ahaa..... from you නේ

KP: from me ඔයාට දෙකකට කඩන්න ඕනේද  
කොහොමද ඕනේ ?

S : මම මේ අපි දෙකකට කඩමු . හත්සිය

පනහ දෙකකට .

KP: හත්සිය පනහ දෙකකට කඩන්න Okay  
thanks .

S : මවං මේ අනිත් පැත්ත උම කියනවා නේ...

KP: ඔව් මං දැන් call කරනවා

S : right oh okay

KP: bye

S : bye .

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**Marking: C192C**

**File Serial No.: VR: 20160127 – 104152 – 17584 – 0112206123 – IN ( DURATION 0:57)**

Participants: 01.Kasun Palisena ( KP )

02.Sashrika (S )

- KP: Hello
- S : yeah මවං
- KP: Brother Loui
- S : කියපං බං
- KP: මවං මේ අරක deal එකක් තියෙනවා මේ one .... 15.5.30
- S : හා
- KP : one million one hundred .....
- S : පොඩ්ඩක් ඉදපන් මවං පොඩ්ඩක් ඉදප පොඩ්ඩක් අළුත්  
එකක් නේ පොඩ්ඩක් ඉදපං මවං කොලයක් හොයා ගන්න ඕනේ right  
කියන්න මවං 15 .
- KP : 5.30
- S : ඔව්
- KP : one billion one hundred and fifty million
- S : one billion one hundred and fifty million හරි
- KP : you want to break in to two or you can do one shot
- S : ආ ..... අපි දෙකක් කරමුද මවං
- KP : හා කියද ? අට සියයිද නැත්නම් පන්සියයි හයසිය පනහයි ?
- S : අපි පන්සියයි හයසිය පනහයි කරමුද ? -----
- KP : පන්සියයි හයසිය පනහයි දානවාද කවිද .  
පන්සියයි හයසිය පනහයි at 10.8050 you are buying
- S : 8050 නේ .....
- KP : yeah එතකොට අර පැත්තට ඔයා
- S : හරි

KP : කියනවා නේද ?  
 S : හරි හරි  
 KP : call එකක් දෙනවාද  
 S : spot නේද මේක  
 KP : value spot  
 S : spot කියන්නේ මඟි ..... 28 නේ ආ ..... 29 right okay මව.  
 KP : 29 Bro okay thanks  
 S : okay bye  
 KP : bye

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**Marking: C192 D**  
**File Serial No.: C 192D 64 20160419-093646-17583-0777444669 -out**  
 File type : wave file

සහභාගිකරුවෝ

- 1 කසුන් පලිසේන මහතා , PTL ,ඇමතුම උත්පාදක ( ක.ප.)
2. රවීෂ අනපත් මහතා ,PABC ,ඇමතුම ලබන්: ( ර.අ. )



පිටපත්කර

- ර.අ. : හෙලෝ කසු
- ක.ප. : හෙලෝ කේෂාන.
- ර.අ. : රවීෂ මව.
- ක.ප. : ආ රවීෂ මව. අර ඊයේ Deal එකම තියෙනවා value 25<sup>th</sup>  
තව එකක
- ර.අ. : 25<sup>th</sup>
- ක.ප. : ඔව් 1 Bn at 51, I am selling you to you , you be selling at 50
- ර.අ. : 1 bn at 10.51
- ක.ප. : Twelve Twelve fifty one
- ර.අ. : Sorry sorry sorry මව. bill auction එකේනේ හිටියේ 12.51 ,
- ක.ප. : හි හි
- ර.අ. : 12.51 ආ value
- ක.ප. : 12.51 1bn value 25<sup>th</sup>
- ර.අ. : 15.03.30 නේ මව.
- ක.ප. : 15.03.30
- ර.අ. : ආ ... නෑ ....15.05.30 නේ  
15.05.30 නේ මව.
- ක.ප. : 15.03.30 sorry sorry 15.05.30 yeah
- ර.අ. : 15.05.30 I am buying you 12.51 .....at 1bn selling to EPF 1bn at  
ahh
- ක.ප. : 12.50 , yes
- ර.අ. : value 25<sup>th</sup>
- ක.ප. : ආ ඔයාට call එකක් දෙන්න පුලුවන්ද උඹ
- ර.අ. : හරි මම දෙන්න
- ක.ප. : value 25<sup>th</sup>

ර.අ. : හරි Ok මව.

ක.ප. : රයිටෝ Thank you , bye.

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**Marking: C192 E**

**File Serial No.: C 192E 20151111-114408 17583 0112206123- IN**

File type : wave file

සහභාගීකරුවෝ

1 කසුන් පලිසේන මහතා , PTL ,ඇමතුම උත්පාද ( ක.ප. )

2. සමීක කරලියැ, මහතා ,PABC ,ඇමතුම ලබන්න: ( ස.ක. )

පිටපත්කැ

Receiver: Treasury

ක.ප. : could I talk to sashika please

Receiver: Yes hold on

ක.ප. : Thanks

ස.ක. : hello

ක.ප. : සූරුක  
 ස.ක : yes මව.  
 ක.ප. : මව, අරු ජා කලාද? අර deal එකට  
 ස.ක : නැතේ මව. ම. උඹට ගන්න හැදුවා විතරයි. ඔව් බන්  
 ක.ප. : ආ right, Ok value 16<sup>th</sup> තව එකක් තියෙනවා මව.  
 ස.ක. : පොඩ්ඩක් ඉන්න මව, පොඩ්ඩක් ඉන්න  
 ක.ප. : මේ ඔයාට ¼ percent කරන්න බැරි? මව. අඩෝ  
 අම්බානට දැන් කරානේ මව. Deal අපි  
 ස.ක. : ½ කරමු මව.  
 ක.ප. : අහලා බලපන් කෝ ලොක්කාගෙන්. ගොඩාක් කරානේ  
 බ. දැන් සැහෙන් ම. හිතන්නේ Deal ten ඒ ගානට විතර යන්න ඇති  
 ස.ක. : ½ කරමු මව. මේක නේ  
 ක.ප. : හරි  
 ස.ක. : මේ දවස්වල කරමු. මව. මොනවා හරි ඉස්සරහට  
 බලමු මව. අපි  
 ක.ප. : හරි value 16<sup>th</sup>  
 ස.ක. : අ ... පොඩ්ඩක් ඉදපන් පොඩ්ඩක් ඉදප. value 16<sup>th</sup>  
 ක.ප. : 900 face value  
 ස.ක. : Face value 900  
 ක.ප. : 9.0150  
 ස.ක. : 0150  
 ක.ප. : 16 26  
 ස.ම. : 1. 6 . 26 you are selling නේ  
 ක.ප. : I am selling to you,  
 ස.ක. : right මව.  
 ක.ප. : And your sale, I'll tell you later in I'll call you now for your

sale

ස.ක : right Ok Ok Ok Ok මව.

ක.ප. : Ok bye

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**Marking: C192 F**

**File Serial No: 192F 114 118 20151202-105609 17583 0777444669- out**

File type : wave file

සහභාගිකරුවෝ

1 කසුන් පලිසේන මහතා , PTL ,ඇමතුම උත්පාද ( ක.ප.)

2. රවීෂ මහතා ,PABC ,ඇමතුම ලබන්: ( ර.ම. )

පිටපත්කර

(පසුබිමින් සංවාදයක් ඇසේ )

ර.ම. : කසු

ක.ප. : ආ මව.

ර.ම. : call එකක් දුන්නා .කියපන් මව.

ක.ප. : ආ මව Deal තියෙනවා. කියන්නද ඔය:

ර.ම. : ඔව් කිය . පොඩ්ඩක් ඉන්න මව. කියන්න මව.

ක.ප. : 15.03.35 you are buying at 10.0050

ර.ම. : 35 ,10

ක.ප. : 0050

ර.ම. : 0050

ක.ප. : 1.7 billion  
 ර.ම. : මවං මේක Deal දෙකකට කඩමුදු ?  
 ක.ප. : හරි No Prob  
 ර.ම. : 1000 යි  
 ක.ප. : 1 bn & seven  
 ර.ම. : ඔව්  
 ක.ම. : 1000 යි 700 යි .  
 ර.ම. : හරි  
 ක.ප. : and value 10<sup>th</sup> මවං  
 ර.ම. : value 10<sup>th</sup>  
 ක.ප. : ඔව් value 10<sup>th</sup>  
 ර.ම. : හරි  
 ක.ප. : මම sale එක අනිත් ලයින් එකේ කියන්නද  
 ර.ම. : හරි  
 ක.ප. : Ok bye  
 ර.ම. : Ok

( ඇමතුම අවසානයයි )

**Marking : C 238 – VR 15**

**File Serial No : 176614**

Participants : 01.Nuwan Salgado (NS)

02.Kasun Palisena (KP)

KP : හලෝ හලෝ

NS : හලෝ

KP : මේ

NS : Yeah Machan

KP : මේ මගේ අර cope එකේ මට දුන් statement එක

NS : ඔව්

KP : මම හිතන්නේ අර්ජුන් ගාව තියෙනවා , කවුද අර මේ රෝසිගේ දුවද පුතාද කොහේද මේ දුන්න අර්ජුන්ට

NS : හා හා

KP : Full statement එක

NS : හා හා

KP : අනේ උඹ ඒක පොඩ්ඩක් හොයලා බලලා ඒක අතට ගන්නවා? ඒක Governor ට යවන්න ඕනෙ.

NS : ආ මම එහෙමනම් ලොක්කාට කපා කරන්නද ?

KP : හා ලොක්කා ගාව තියෙයිද දන්නෑ නේ ?

NS : උඹට කොපියක් මේ මේ කවුද

KP : නෑ මට කොපියක් දුන්නෑ , රෝසිගේ පුතා අන්න උහා හොයලා දෙනවාද මොකක්ද කීව්

NS : ආ එහෙමද මම එහෙනම් ලොක්කාට කලා කරන්නද ?

KP : ඔව්

NS : ආ හා

KP : රෝසිගේ පුතා ගාව තියෙනවා ඔයා උගේ number එක ඉල්ලාගෙන ඔයා ඉල්ලාගත්තා නම් ඔයාට දෙයි

NS : හරි හද

KP : මේ මොකක්ද කියන්න ගියේ

NS : මොකක් නෑ ආ මේ Sanjeewa has gone

KP : කොහේද ?

NS : ඇල මැද්දේ ගෙදරට Parliament එකට

KP : ඒ මොකටද ?

NS : COPE

KP : ඒ මොකටද ?

NS : Who knows මවං දැන් එහෙ උෟ තමයි එහෙ I think hearing එකක් යනවා එක්කෝ Governa ගේ hearing එක නැත්නම් අපේ එක , දෙකෙන් එකක්

KP : මේ අපිට එන්න කියලා ලියුමක් ආවාද?

NS : මෙහෙට නම් කිසිම දෙයක් ආවේ නෑ මවං හම් කොහොම හරි that person has gone එහෙ ඉදන් එයා අර තව එක්කෙනෙක් එක්ක data ඉල්ලනවා , මේ මේ අතේ නෑතේ මවං, ඔක්කොම compile කරලා දෙන්න ඔනෙන් , ඉතින් හද හද දෙනවා උෟ, මේ then ඔය ටික තමයි මඳ , shape එකේ trade වෙනවා, ඔය ටික තමයි මවං

KP : දැන් අදද ගිහිල්ලා තියෙන්නේ ?

NS : ඔව් ඔව් මේ දැන් උදේ ඉදන් කලා කරනවා මවං අද උදේ කියනවා ,අද උදේ කියන්නේ මවං මෙතනින් මේ එලියට යන්න වාහනේ අරන් කියනවා data ඔනේ කියලා පොඩ්ඩක් කියපන්

KP : මහ මොඩයෙක් නේ



NS : පිස්සු බි , ලැස්තුවෙලා නෙමේ යන්නේ , නිකම් එතන ගියාම යන වි  
තමයි උන් හිතන් ඉන්ද

KP : අයියෝ අයියෝ

NS : මවං, නායි මවං න , පෙරලාගෙන නායි , හරි මං ලොක්කාට අද කථා  
කරලා කියන් , statement එක එයාගෙන් තමයි ගන්න පුළුවන් කියලා

KP : OK මවං , OK

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**Marking: C238 – VR 18**

**File Srial No. : 15082**

Participations – Kasun palisena ( K P )

Nuwan Salgadu (NS )

T Udayasielan ( T U )

**Transcript**

NS : Hello

KP : call charlie  
NS : hm  
KP : Call charlie and offer the 35  
NS : Ok at half 1.25 valve spot  
KP : yeah  
NS : Ok

.....

.....Ringing .....

TU : Hello  
NS : Hello sir ,  
TU : hm  
NS : Sir , before end of the day wanted to try the deal with you again sir  
TU : hm hm  
NS : would you be interested Sir, on the 15/03/35  
TU : At what rate  
NS : So the best rate. I can go is a 9 ½ Sir, 1.25 billion . I can offer there  
Sir.  
TU : Ok , but the thing is I have to sell same thing.  
NS : ( Laugh ) Sir, Sir we took 2 billion of your on seven fifteen.  
TU : yeah, another 1.5 billion  
NS : Sir another 1.5 billion wont be able to swap sir  
TU : Ok 1.25 billion  
NS : moment sir, I will have to cheek but  
TU : same rate, spot both case  
NS : same

TU : check and let me know and email  
NS : Ok sir, it is 1.25 swap is it sir  
TU : Yeah yeah  
NS : Alright , I will let you know sir  
TU : Yeah  
NS : Yes  
TU : I need email, you Know my email address  
NS : Yes I have your email address  
TU : Ok , you have to send it immediately, If we have to do so  
NS : Right , I will let you Know  
TU : Give me within 2 minutes  
NS : I will let you know within 2 minutes  
TU : Ok  
NS : ( End of the conversation )  
මේ 1.25 Billion swap එකක් කරමු කියනව , Same price.

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**Marking: C238 – VR 20**

**File Serial No.: 65998**

Participants:

Nuwan Salgadu ( NS )

Kasun Palisena ( KP )

**Transcript**

KP : Hello

NS : Kassa Is honorable Nishantha there

KP : Nishantha left

NS : Left

KP : Left to Central Bank යනවාද මොනවාද කීව්වේ

NS : හා හරි හරි එහෙනම් කමක් නෑ

KP : Left කියන්නේ විනාඩියක් ඇති ගිහිලි

NS : හා right right උෞ mobile එක answer කරන්නේ

KP : කොහෙද ඉන්නේ

NS : Collupity , SMB leaving SMB , going to Central Bank

KP : ලොක්කා හිටියාද ?

NS : ඔව් ඔව් ඔව්

KP : ඇතුලට ගියාද ?

NS : අම්මට අර තඩ් බලලෙක් ඉන්නවානේ ඩේ

KP : නියමයිනෙ

NS : ඔව් ඔව් උෞ මරු

KP : මොනවාද කමේ උෞට

NS : පෙරලාගෙන ආවානේ උෞ හිටියා. උෞ ඇවිල්ලා මං හිතුවා උෞ මාව ඇදන් යයි කී .

KP : Podrik ,

NS : ඇ

KP : Podrik ද , ලුලු ද ?

NS : මන්දා බං, ලොකු එකෙක්

KP : දෙන්නෙක් ඉන්නවා ලොකු

NS : Golden colour one

KP : දෙන්නෙ , දෙන්නම එකම ජාතියේ , දෙන්නම එකම ජාතියේ , එකෙක් කොල්ලෙක් , එකෙක් ගැනු එක් කෙනෙක්.

NS : දොන් ආවා.

KP : මොනවාද කිව්වේ දොන් ඇවිල්ලා

NS : දොන් එක්ක උා පෙරලාගෙන ආවා

KP : අත්සන් කරලා දුන්නාද දොන්

NS : Yeah Yeah

KP : මොනවාද කිව්වේ , මොනවාටද මේ කියලා ඇහුවේ නැද්ද ?

NS : නෑ මං කිව්වා මේ එකක් උන් බැලුවා . කියවලා බැලුව. මම කිව්වා අනිද්දේ Fund transfer letter එක and ඊට පස්සේ අර අර වැඩෙන් මම කිව්වා Central Bank and a few market participants and primary dealers competitors ලා කියල . ආ Ok Ok කියලා ආවා ද

KP : න්ම

NS : Right Pali

KP : Ok bye

NS : Ok bye

**Marking – C238 – VR 21**

**FILE NAME: 11153.WAV**

**PARTICIPANTS:**

1. Kasun Palisena (KP), Originator
2. Arjun Aloysius (AA), Recipient

**TRANSCRIPT**

.....

[1:15]

Hello

KP: Hi Arjun, so got the little Johnny's bids

AA: OK

KP: bidding two billion thirteen thirty to fourteen percent on the twenty five.

AA: right

KP: and twenty six thirteen forty to fourteen thirty another two billion.

AA: OK OK

KP: and twenty five we are starting at thirteen seventy where the thirty we are starting at thirteen half can't we start twenty five also at thirteen half

AA: you want to start low isn't it?

KP: No so then cannot making any sense for us to start the 30<sup>th</sup> at thirteen half if not

[2:04]

AA: no I know then we start the other one at higher, then it's an indicator no we start the other one higher

KP: OK and

AA: you start now since you are starting thirtieth, other one will also start about 13.58 like that higher

[2:15]

KP: Fourteen half cutoff is guaranteed no Arjun

AA: 100 per cent fourteen half is guaranteed 100 per cent.

KP: OK then for shall I go ahead with my numbers

AA: go ahead with your numbers

KP: OK thirteen half to fourteen forty five billion broken in to ten deals

AA: yeah which one you are referring to 2030

KP: thirty thirty yeah thirty

AA: OK

KP: five billion one shot at fourteen sixty



AA: OK

KP: and five billion Pan Asia at fourteen eighty

AA: OK, tell me the five billion fourteen sixty one shot why do you want to do one shot, do you OK with doing in one shot

KP: you wanted to do one shot deal

AA: because they should not, no I didn't wanted to do in one shot I only wanted one shot for fourteen eighty PanAsia fourteen sixty I want to do five billion split between hundred different bids

KP: right ok then I'll make that can you give me five more minutes I'll call you back

AA: You make the claim now ok no. that's small check you call me back that's fine. What's the other five billion that you are doing? The first five billion thirteen half

KP: thirteen half to fourteen forty

AA: you are loading to more towards the fourteen to forty-five

KP: fourteen to fourteen forty has seventy five percent of the five billion

AA: brilliant, brilliant what's your total average of this bill?

KP: yeah it changes because fourteen sixty has to be parted give me five more minutes I'll call you back

AA: OK we'll get fifty to fifty five or fifty to fifty eight you decide.

KP: OK

AA: call me and then tell me how would be the average looking in total all three together how would the average looking

KP: currently ... around fourteen and half

AA: can you do bit better

KP: so I will try to do that give me few minutes I will call you back

AA: OK how you decide thirty thirty-five or forty

KP: currently thirty Arjun

AA: you don't want to go more

KP: will do will add about may be about fifty hundred and multiples and start from low and go all the way up ten basis points or twenty five basis points margin

AA: start low and go you decide you decide but the total average you better with fourteen fifty no you get a better average of fourteen fifty no

KP: yeah yeah yeah I'll do that.

AA: OK thanks

KP: OK

AA: OK will wait for your call

KP: OK

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**Marking: C238 – VR 20**  
**File Serial No.: 65998**

Participants:

Nuwan Salgadu ( NS )  
Kasun Palisena ( KP )

**Transcript**

KP : Hello

NS : Kassa Is honorable Nishantha there

KP : Nishantha left

NS : Left

KP : Left to Central Bank යනවාද මොනවාද කීව්වේ

NS : හා හරි හරි එහෙනම් කමක් නෑ

KP : Left කියන්නේ විනාඩියක් ඇති ගිණ

NS : හා right right උා mobile එක answer කරන්නේ

KP : කොහෙද ඉන්නෙ.

NS : Collupity , SMB leaving SMB , going to Central Bank

KP : ලොකුකා හිටියාද ?

NS : ඔව් ඔව් ඔව්

KP : ඇතුලට ගියා ?

NS : අම්මට අර තඩ් බලලෙක් ඉන්නවානේ බන්

KP : නියමයිනෙ

NS : ඔව් ඔව් උා මරු

KP : මොනවාද කරේ උාට

NS : පෙරලාගෙන ආවානේ උා හිටියා. උා ඇවිල්ලා මං හිතුවා උා මාව ඇදන් යයි කියා .

KP : Podrik ,

NS : ඇ

KP : Podrik ද , ලුලු ද ?

NS : මන්දා බෑ , ලොකු එකෙක්

KP : දෙන්නෙක් ඉන්නවා ලොකු

NS : Golden colour one

KP : දෙන්නෙ , දෙන්නම එකම ජාතියේ , දෙන්නම එකම

ජාතියේ , එකෙක් කොල්ලෙක් , එකෙක් ගැනු එක් කෙනෙක්.

NS : දොන් ආවා.

KP : මොනවාද කිව්වේ දොන් ඇවිල්ලා

NS : දොන් එක්ක උග පෙරලාගෙන ආවා

KP : අත්සන් කරලා දුන්නාද දොන්

NS : Yeah Yeah

KP : මොනවාද කිව්වේ , මොනවාටද මේ කියලා ඇහුවේ නැද්ද ?

NS : නෑ මං කිව්වා මේ එකක් උන් බැලුවා . කියවලා බැලූ . මම

කිව්වා අනිද Fund transfer letter එක and ඊට පස්සේ අර

අර වැඩෙන් මම කිව්වා Central Bank and a few market articipants and

primary dealers competitors ලා කියල . ආ Ok Ok කියලා ආවා ද

KP : හේම්

NS : Right Pali

KP : Ok bye

NS : Ok bye

**Marking : C 238 – VR 15**

**File Name : 6800**

Participants : 1. Kasun Palisena (KP)  
2. Nuwan Salgadu (NS)

**Transcript**

KP : Hello

NS : Kassa , David is on line

KP : Ah .....Can you ask him to call me on mobile ?

NS : Ah Right , I will do that

KP : OK

----- end -----

## ORDER

**03.08.2017**

On 01<sup>ST</sup> August 2017, learned Senior Additional Solicitor General made an application that the Commission of inquiry issues an Order prohibiting Mr. Arjuna Aloysius from accessing his “ Apple ID” or “Apple Account” and also prohibiting Mr Aloysius from tampering with or altering the data in that “ Apple ID” or “Apple Account”. We are well aware that an “Apple ID” or “Apple Account” is a personal data account maintained by Apple Inc. We are also informed that, an user of a “Apple” mobile telephone can create a personal “Apple ID” or “Apple Account” and that he can then use that “Apple ID” or “Apple Account” to access the data arising from or relating to the use of his mobile phone. We are also informed that, such data is stored in several data bases including data bases known as “iCloud” and “iMessage”.

Learned Senior Additional Solicitor General has submitted that, the Commission of Inquiry has the inherent or consequential power to make the Orders sought by him.

We appreciate the reasons why learned Senior Additional Solicitor General saw the need to make this application, since any tampering with or alteration of the aforesaid data would delay or hinder the investigation which is being carried out.

However, while being cognizant of these reasons, we are acutely conscious of the fact that this Commission of Inquiry must act within the terms of the lawful authority vested in us. We also note that, the Commissions of Inquiry Act No. 17 of 1948, as amended, does not have a clear provision conferring on the Commission of Inquiry, the power to make such Orders as may be required for the purposes of carrying out our Mandate. It appears to us that, the powers vested in us are specifically set out in the provisions of the Act. In these circumstances, while we recognise that, in accordance with long established principles of law which do not need to be recounted here, there must be some inherent power or jurisdiction vested in the Commission of Inquiry to make such Orders as are required to give meaningful effect to the provisions of the Act, we are of the view that we should approach the exercise of any such power or jurisdiction, with much circumspection and care.

We have carefully examined the provisions of the Commissions of Inquiry Act No. 17 of 1948, as amended. We are not satisfied that, the provisions of the Act give us the power to issue an Order prohibiting Mr. Aloysius from **accessing** his “Apple ID” or “Apple Account”. In taking this view, we note that, the “Apple ID” or “Apple Account” of an individual is his personal property and we are mindful that this Commission of Inquiry should give due regard and respect to the right of a person to access his property.

However, the position is different with regard to the second part of the application made by learned Senior Additional Solicitor General which is to prohibit Mr. Aloysius from tampering with or altering the data in that “Apple ID” or “Apple ID” or “Apple Account”.



In this regard, we are of the view that, the mobile phone belonging to Mr. Aloysius is a thing or item which has been duly produced to the Commission of Inquiry in terms of the Act and, is therefore, in our custody. In these circumstances, this Commission of Inquiry has the power to ensure that, such thing or item in the custody of Commission is not tampered with or altered. The data in the “Apple ID” or “Apple Account” which is integral to that mobile phone falls within that description.

Therefore, we issue an Order prohibiting Mr. Aloysius from tampering with or altering in any manner, the data in that “Apple ID” or “Apple Account” and prohibiting his agents or others acting on his behalf from doing so.

We also consider it appropriate and necessary to refer to the provisions of sections 201 of Chapter XI of the Penal Code read with section 9 of the Commissions of Inquiry Act which make causing the destruction or secreting or obliteration or rendering illegible of documents (which in our view include data) which any person may be compelled by law to produce as evidence before this Commission of Inquiry and with the intention of preventing such documents (which in our view include data) before this Commission of Inquiry, an offence punishable with a term of imprisonment. In this regard we also refer to section 198 and the other provisions of Chapter XI of the Penal Code and other laws which are relevant in this regard.

Mr. Arjuna Aloysius is warned that, any act on his part which attempts to or commits one or more of the aforesaid offences may result in the commission of an offence and, consequently, the institution of appropriate criminal proceedings against him.

We also observe that, the deletion of data may, in appropriate circumstances, justify the drawing of appropriate inferences or presumptions under the law including under the provisions of the Evidence Ordinance.

We direct that a copy of this Order be made available to learned President’s Counsel appearing for Mr. Arjuna Aloysius so that he advises his client accordingly and also that a copy of the Order be served on Mr. Arjuna Aloysius.

Justice K.T. Chitrasiri  
Chairman  
Commission of Inquiry

Justice P.S. Jayawardena  
Member

Mr. Kandasamy Velupillai Esq.  
Member

## COMMISSION OF INQUIRY

### INQUIRING INTO THE ISSUANCE OF TREASURY BONDS

14.08.2017

#### ORDER

On 26<sup>th</sup> July 2017, this Commission of Inquiry issued an Order under section 7 of the Commissions of Inquiry Act No. 17 of 1948, as amended, [“the Act”] directing Mr. Arjuna Mahendran to produce his mobile communication devices (such as mobile phones and tab devices) and mobile computer devices (such as laptop computers) and to submit an Affidavit containing information pertaining to the use of these devices. This Order was made in pursuance of the Mandate issued to this Commission of Inquiry under section 2 of the Act which makes it clear that this Commission of Inquiry has been appointed, *inter alia*, to investigate and inquire into the administration, management and functions of the Central Bank of Sri Lanka of which Mr. Mahendran was the Chief Executive Officer and Governor at the times relevant to our Mandate and also to investigate and inquire into and report on Mr. Mahendran’s conduct in this regard. The Mandate issued to this Commission of Inquiry is self-explanatory.

In order to carry out the aforesaid investigation and inquiry, the Act has vested this Commission of Inquiry with the power under section 7 (1) (a) of the Act to examine Mr. Mahendran and to procure and receive his evidence. Further, the Act has conferred on this Commission of Inquiry the power under section 7(1)(bbb) to require Mr. Mahendran to produce any “*material*” which is in his possession or custody. The power under section 7 (1) (c) is to require Mr. Mahendran to produce any “*document or other thing*” in his possession. It is self-evident that, the Act has given the aforesaid powers on this Commission of Inquiry for the purposes of enabling this Commission of Inquiry to duly, properly and fully carrying out the investigation and inquiry of the matters specified under and in terms of the Mandate issued to us. The aforesaid Order dated 26<sup>th</sup> July 2017 was issued in pursuance of the powers vested in this Commission of Inquiry by section 7 of the Act.

Having considered the evidence before us, the Commission of Inquiry considered it relevant and necessary to examine the data on these mobile devices, by way of call records, text messages, emails and data files and other such relevant data and material, for the purpose of the aforesaid investigations and inquiry within the terms of the mandate given to this Commission of Inquiry. Such an exercise is necessary for the purposes of examining Mr. Mahendran and recording his evidence when the Commission of Inquiry summons Mr. Mahendran to give evidence.

The Officers of the Hon. Attorney-General's Department who are assisting this Commission of Inquiry Act, had previously advised us that, in order to extract such data from mobile devices, it is necessary to forward the mobile devices to the Criminal Investigation Department. It is because it has the equipment and expertise needed to carry out the extraction of data and to copy the data on to a compact disc or another appropriate storage medium, so that the data can be examined by perusing that compact disc or other storage medium. The Officers of the Hon. Attorney-General's Department had also informed us that, to the best of their knowledge, the Criminal Investigation Department adheres to recognized best practices when extracting and copying data from mobile devices so as to preserve the integrity of the data and the copies obtained and the evidence that may be obtained therefrom.

In this background, the Commission of Inquiry issued the aforesaid Order. The Commission also requested the Officers of the Hon. Attorney-General's Department to assist the Commission of Inquiry by examining the data obtained from Mr. Mahendran's mobile devices, in the first instance.

The Order was served on Mr. Mahendran on 26<sup>th</sup> July 2017. Thereupon, Mr. Chanaka De Silva, Attorney-at-Law, who is a senior counsel in the team of counsel led by Mr. Romesh De Silva, PC who appear for Mr. Mahendran before this Commission of Inquiry and Mr. Yasantha Kodagoda, PC, Additional Solicitor General, agreed that:

- I. all mobile devices to be produced by Mr. Mahendran to the Commission of Inquiry will be sealed in his presence;

- II. The sealed mobile devices will be forwarded to the Criminal Investigation Department for the purpose of enabling the officers of the Criminal Investigation Department to extract the data on these devices and obtain copies of the data;
- III. When the officers of the Criminal Investigation Department extract the data from the mobile devices, only three copies of such data will be obtained on compact discs or another appropriate storage medium;
- IV. The first copy will be sealed and kept in the custody of the Commission of Inquiry; the second copy will be given to Mr. Kodagoda, PC, Additional Solicitor General who will examine the data in pursuance of his function of assisting the Commission of Inquiry and, thereafter, relevant data will be examined by the Commission of Inquiry with Mr. Kodagoda's assistance and the third copy will be given to Mr. Mahendran;
- V. When the data is examined, the following data will not be examined and will not be used for the purposes of the Commission of Inquiry:
  - (a) Communications which are privileged in law including communications between Mr. Mahendran and his lawyers
  - (b) Data relating to Mr. Mahendran's personal or private or family life and data relating to Mr. Mahendran's professional activities which are not connected to the Central Bank of Sri Lanka;
- VI. After the aforesaid extraction, copying and examination of data is completed; the mobile devices will be returned to Mr. Mahendran. It was also agreed by counsel that, only Mr. Yasantha Kodagoda, PC, Additional Solicitor General will examine the data prior to this Commission of Inquiry being provided with any relevant data, subject to Mr. Kodagoda, PC discussing the relevancy of data and such data, where he considers it necessary, with Mr. Dappula De Livera, PC, Senior Additional Solicitor General who leads the team of Officers of the Hon. Attorney-General's Department and are assisting this Commission of Inquiry.

After the aforesaid terms were agreed, Mr. Mahendran produced three mobile telephones and one laptop computer, in compliance with the Order dated 26<sup>th</sup> July 2017. These devices were accepted and placed under sealed cover in the presence of Mr. Mahendran's legal representatives.

On 26<sup>th</sup> July 2017, Mr. Romesh De Silva, PC also made a subsequent application that, the extraction of the data at the Criminal Investigation Department, should be done in the presence of one of Mr. Mahendran's legal representatives. When this application was referred to before the Commission of Inquiry on a subsequent day, Mr. Kodagoda, PC, Additional Solicitor General objected to Mr. Mahendran's legal representatives being present when the extraction of the data at the Criminal Investigation Department.

Mr. Kodagoda's objection was made, *inter alia*, on the ground that, it was not desirable or necessary that a legal representative of Mr. Mahendran should be permitted to be present since the international practice was that such representation was not permitted. Mr. Dappula De Livera, PC, Senior Additional Solicitor General also objected to this application on the ground that, the established procedure is that a suspect is not permitted to be present when forensic examinations of Productions are carried out and that, all that matters is to ensure that the chain of safe custody and control is maintained.

Mr. Chanaka De Silva submitted that there was no merit in the objections made by Mr. Kodagoda, PC and Mr. De Livera, PC and he is of the view that, Mr. Mahendran was entitled to have his legal representative present when data was being extracted from the mobile devices.

The Commission of Inquiry advised counsel that we wish to carefully consider this issue before making any Order and requested learned counsel to assist us by submitting any authorities which are relevant. Further, in view of Mr. Kodagoda's objection that the international practice did not permit any representation at the time data is being extracted and copied at the Criminal Investigation Department, we requested Mr. Kodagoda, PC to provide us with documents setting out relevant international practices. We also requested learned counsel to provide us with their written submissions on the issue before us. We informed counsel that we will make an appropriate Order thereafter.

From 26<sup>th</sup> July 2017 onwards, the mobile devices produced by Mr. Mahendran have been in the custody of the Secretary to the Commission of Inquiry, under sealed cover, pending the making of this Order by us. Once the Order is made, the mobile devices will be forwarded to the Criminal Investigation Department for the extraction and copying of data, under and in terms of this Order and in compliance with the agreement reached on 26<sup>th</sup> July 2017, which has been set out above.

In response to our request that we be provided with documents setting out relevant international practices, Mr. Kodagoda, PC, subsequently provided us with the document titled "*Forensic Examination of Digital Evidence: A Guide for Law Enforcement*" published by the U.S. Department of Justice and the document titled "*ACPO Good Practice Guide for Digital Evidence*" published by the Association of Chief Police Officers of England, Wales and Northern Ireland. In support of his submission, Mr. De Livera, PC has tendered copies of judgments of the following decisions of the Court of Appeal: 1988 2 SLR 414, 1989 2 SLR 204, 1998 3 SLR 375, C.A. 212/95, C.A. 61/96 and C.A. 16/2010. On 08<sup>th</sup> August 2017, Mr. Chanaka De Silva has tendered his written submissions in support of the position that, Mr. Mahendran is entitled to have his legal representative present when the extraction and copying of data is done at the Criminal Investigation Department.

On 01<sup>st</sup> August 2017 and in the aforesaid background, this Commission of Inquiry issued a similar Order under section 7 of the Act, directing Mr. Kasun Palisena to produce his mobile communication devices and mobile computer devices and to submit an Affidavit containing information pertaining to the use of these devices.

On 03<sup>rd</sup> August 2017, Mr. Kalinga Indatissa, PC appeared for Mr. Palisena and submitted that, this Commission of Inquiry has no power to require Mr. Palisena to produce his mobile communication devices and mobile computer devices other than at the stage of Mr. Palisena giving evidence. Mr. Indatissa, PC also submitted that, the procedure followed by the Commission of Inquiry up to now is flawed as a result of the Commission of Inquiry not having formulated Rules and also as a result of functions, which Mr. Indatissa contends, have been carried out by the Officers of the Hon Attorney General's Department. However, Mr. Indatissa, PC informed the Commission of Inquiry that, subject to the objections raised by him, he has advised his client, Mr. Palisena, to produce his mobile communication devices. Mr. Indatissa, PC made a further application that,

since Mr. Palisena was expected to give evidence on 08<sup>th</sup> August 2017 and needed his mobile computer device (laptop) for the purposes of giving evidence, Mr. Palisena be permitted to retain his mobile computer device until he completed his evidence. Finally, Mr. Indatissa, PC also associated himself with Mr. Chanaka De Silva's aforesaid application seeking an Order that, a legal representative of Mr. Palisena should be permitted to be present when the officers of the Criminal Investigation Department who carry out forensic duties:

- (i) extract data from any mobile devices produced by Mr. Palisena to this Commission of Inquiry; and
- (ii) copy such data on to a compact disc or other appropriate storage medium.

Having considered Mr. Indatissa's submissions, we directed that, [as agreed by Mr. Indatissa, PC] Mr. Palisena's mobile communication devices should be produced and placed under sealed cover in the presence of Mr. Palisena's legal representative and, thereafter, the sealed cover be held in the custody of the Secretary of this Commission of Inquiry until an appropriate Order is made. Thereupon, Mr. Palisena produced two mobile telephones on 04<sup>th</sup> August 2017. Since then these two mobile telephones have been in the custody of the Secretary of this Commission of Inquiry under sealed cover. As requested by Mr. Indatissa, PC, we directed that, Mr. Palisena is permitted to retain his mobile computer device (laptop) until he completed his evidence. We also requested Mr. Indatissa, PC to tender written submissions with regard to the application and objections he voiced. On 04<sup>th</sup> August 2017, Mr. Indatissa, PC has tendered undated written submissions.

We have carefully considered the documents, decisions and written submissions tendered to us by learned Counsel and also other material we consider relevant.

First, we shall make our Order with regard to Mr. Indatissa's submission that, this Commission of Inquiry has no power to require Mr. Palisena to produce his mobile communication devices and mobile computer devices other than at the stage of Mr. Palisena giving evidence.



In this regard, it is relevant to mention here that, after having considered the evidence before us, the Commission of Inquiry was of the view that; it is relevant and necessary to examine the data on Mr. Arjun Aloysius' mobile communication devices and mobile computer devices for the purpose of the investigations and inquiry within the terms of the mandate given to this Commission of Inquiry. Therefore, and in the background of the aforesaid advice and information given to us by the Officers of the Hon. Attorney-General's Department that the extraction and copying of data from these mobile devices should be done by the Criminal Investigation Department which has the necessary equipment and expertise and the officers there adhere to recognized best practices when extracting and copying data; this Commission of Inquiry issued an Order dated 20<sup>th</sup> July 2017 to Mr. Aloysius directing him to produce his mobile communication devices and mobile computer devices and to submit an Affidavit containing information pertaining to the use of these devices. In compliance with this Order, Mr. Aloysius without any objection being raised, produced his mobile phone and laptop on 24<sup>th</sup> July 2017. Mr. Kalinga Indatissa, PC who appeared for Mr. Aloysius, at that point of time made no objection to his client producing his mobile phone and laptop prior to Mr Aloysius giving evidence. Mr. Indatissa, PC did not dispute the power vested in this Commission of Inquiry to direct a person to produce mobile communication devices and mobile computer devices prior to that person giving evidence.

We also consider it relevant to note that, learned counsel appearing for Mr. Mahendran have not disputed the power vested in this Commission of Inquiry to direct a person to produce mobile communication devices and mobile computer devices but have only asserted that their client is entitled to have his representative present when data on Mr. Mahendran's mobile devices is extracted and copied.

With regard to the submission now made by Mr. Indatissa, PC, who now appears for Mr. Palisena, that this Commission of Inquiry has no power to require Mr. Palisena to produce his mobile communication devices and mobile computer devices other than at the stage of Mr. Palisena giving evidence, we note that, in order to carry out the investigation and inquiry we are required to carry out the terms and conditions of the Mandate issued to us, the Act has vested this Commission of Inquiry with the power under section 7 (1) (a) of the Act, to examine Mr. Palisena and to procure and receive his evidence. Further, the

Act has vested this Commission of Inquiry with the power under section 7 (1) (bbb) to require Mr. Palisena to produce any “*material*” which is in his possession or custody and the power under section 7 (1) (c) to require Mr. Palisena to produce any “*document or other thing*” in his possession. It is self-evident that the Act has conferred the aforesaid powers on this Commission of Inquiry for the purposes of enabling this Commission of Inquiry to duly, properly and fully carry out the investigation and inquiry specified under and in terms of the Mandate issued to us.

Although Mr Indatissa, PC has not referred to section 7 (1) (bbb) of the Act in his written submissions, we consider that this statutory provision is directly relevant and applicable to the power vested in this Commission of Inquiry to issue an Order requiring Mr Palisena to produce his mobile communication devices and mobile computer devices and to submit an Affidavit containing information pertaining to the use of these devices, prior to Mr. Palisena giving evidence. In this regard, we note that, section 7 (1) (a) and 7 (1) (b) gives this Commission of Inquiry the power to procure and receive evidence and to examine persons and to require the evidence of any witness to be given. It is clear that, section 7 (1) (bbb) of the Act confers on this Commission of Inquiry, a separate and different power to require any person to produce “*any other material which is in his possession or custody*”. It is evident that, this power given by section 7 (1) (bbb) to require any person to produce “*any other material which is in his possession or custody*”. It is independent of and may be exercised separately from the power given by section 7 (1) (a) and 7 (1) (b) to procure and receive evidence and to examine persons and to require the evidence of any witness to be given. Further, the use of the words “*any other material*” suggests that the legislature intended to confer on a Commission of Inquiry a wide power to require the production of *any* item or substance or data or information which is relevant to or which will assist the investigation and inquiry which that Commission of Inquiry is required to carry out in terms of its Mandate. In this connection, we note that, the Shorter Oxford Dictionary [5<sup>th</sup> ed.] defines the word “*material*” as including “ ..... a thing suitable for a specific role or purpose”, “*Items needed for an activity*” and also “*Information, evidence, ideas etc*”. The inclusion of the words “*any other*” before the word “*material*” in section 7 (1) (bbb) of the Act suggests that, the legislature intended that the word “*material*” should be construed widely in order to invest a Commission of Inquiry with the power to require the production of any type or sort or description of “*material*” which is needed or is suitable

for the Commission of Inquiry to duly, properly and fully carry out the investigation and inquiry into the matters specified in its Mandate. Therefore, we are of the view that, mobile communication devices and mobile computer devices and the data and information therein which can be extracted and examined for the specific purposes of this Commission of Inquiry and the activity of investigation and inquiry which this Commission of Inquiry is engaged in, can be correctly regarded as falling within the term “*any other material*”, used in section 7 (1) (*bbb*) of the Act.

With regard to Mr. Indatissa’s submission that, section 7 (1) does not refer to the power of a Commission of Inquiry to issue an Order exercising the powers set out in the several sub sections of section 7 (1), we are of the view that, when section 7 (1) (*bbb*) of the Act gives this Commission of Inquiry the power “*to require any person to produce ..... any other material which is in his possession or custody*”, this section necessarily confers the power on this Commission of Inquiry to issue an Order addressed to that person requiring him to do so. To contend otherwise would render this statutory provision meaningless and ineffective.

For the aforesaid reasons, we are of the view that, in circumstances where this Commission of Inquiry considers that the production of a person’s mobile communication devices and mobile computer devices is necessary to enable this Commission of Inquiry to duly, properly and fully carry out the investigation and inquiry specified in our Mandate; this Commission of Inquiry has the power, under section 7 (1) (*bbb*) of the Act, to require that person to produce his mobile communication devices and mobile computer devices, prior to that person giving evidence and, in fact, it is independent of and separately from that person giving evidence.

Further, we also note that, section 7 (1) (c) of the Act, gives this Commission of Inquiry the power “*to summon any person ..... to give evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession.*” [emphasis added]. As Maxwell states [Interpretation of Statutes 12<sup>th</sup> ed at p.232], in ordinary usage, the use of the word “*or*” is disjunctive. Next, as Maxwell states [at p. 28], the primary rule of statutory interpretation is that, words in a statute should be given their literal meaning and phrases and sentences

are to construed according to the rules of grammar. Accordingly, it appears to us that, the use of the word “or” before the words “*require him to produce any document or other thing in his possession.*” in section 7 (1) (c) gives this Commission of Inquiry the power to summon a person to produce “*any document or other thing in his possession.*” in addition and separately to the power to summon a person “*to give evidence.*” We are also of the view that, section 7 (1) (c) should be interpreted in a manner which gives effect to the clear intention of the legislature to invest a Commission of Inquiry with the power to require the production of documents and things which are necessary to examine a witness and that, therefore, where the production of a document or thing is necessary before that person gives evidence, this Commission of Inquiry has the power, under section 7 (1) (c), to require a person to produce that document or thing before he gives evidence. We also note that, the Shorter Oxford Dictionary defines the word “*thing*” as an “*an inanimate material object*” and also as “*an individual possession*” and that, here too, the inclusion of the words “*any other*” before the word “*thing*” in section 7 (1) (c) of the Act suggests that, the legislature intended to invest a Commission of Inquiry with a wide power to require the production of *any “thing”* which is needed by or is suitable for the Commission of Inquiry to duly, properly fully carry out the investigation and inquiry specified in its Mandate. We are also of the view that, mobile communication devices and mobile computer devices can be correctly regarded as also falling within the term “*thing*” used in section 7 (1) (c) of the Act. Finally, we consider the aforesaid Order 01<sup>st</sup> August 2017 issued to Mr. Palisena to produce his mobile communication devices and mobile computer devices and, at the same time, to submit an Affidavit containing information pertaining to the use of these devices, to be in the nature of a “*summons*” as contemplated in section 7 (1) (c) of the Act.

Thus, we are of the view that, in circumstances where this Commission of Inquiry considers that the production of a person’s mobile communication devices and mobile computer devices is necessary to enable this Commission of Inquiry to duly, properly fully carry out the investigation and inquiry specified in our Mandate, this Commission of Inquiry also has the power, under section 7 (1) (c) of the Act, to require that person to produce his mobile communication devices and mobile computer devices prior to that person giving evidence.

For the aforesaid reasons, we see no merit or substance in Mr. Indatissa's submission that, this Commission of Inquiry has no power to require Mr. Palisena to produce his mobile communication devices and mobile computer devices other than at the stage of Mr. Palisena giving evidence.

Next issue is with regard to the Mr. Indatissa's submission that, procedure followed by the Commission of Inquiry up to now is flawed as a result of the Commission of Inquiry not having formulated Rules. It is clear that, section 25 of the Act only speaks of a discretionary power vested in the Commission of Inquiry to make rules. It is not a mandatory requirement that a Commission of Inquiry must frame rules. Further, even the discretionary power to make rules is only to make rules relating to *"the organizational structure, mandates of subordinate structures and functions of officers of the Commission."* In this regard, since this Commission of Inquiry has only a relatively small number of staff and the office and all staff of this Commission of Inquiry function at the same premises as this Commission of Inquiry and under the direct supervision of the Secretary of the Commission of Inquiry who reports to the Chairman on a daily basis. Also, since the Chairman and other Commissioners are sitting and conducting hearings on a day to day basis and have the means of exercising direct knowledge and control over the staff where necessary, this Commission of Inquiry has, so far, seen no need to make rules in the manner contemplated by section 25 of the Act.

For the aforesaid reasons, we do not agree with Mr. Indatissa's submission that, procedure followed by the Commission of Inquiry up to now is flawed as a result of the Commission of Inquiry not having formulated Rules.

Lastly, Mr. Indatissa, PC has submitted that, the procedure followed by the Commission of Inquiry up to now is flawed because Mr. Indatissa, PC contends that, the witnesses who have testified before this Commission of Inquiry have been determined by the Hon. Attorney General and that the officers of the Hon. Attorney General's Department have determined when such witnesses are to be called and have summoned such witnesses and also that, the officers of the Hon. Attorney General's Department have been recording the statements of witnesses. Having made these contentions, Mr. Indatissa, PC submits

that, the officers of the Hon. Attorney General's Department who are assisting this Commission of Inquiry are not permitted to perform such functions under the law since it is only the Commission of Inquiry which may determine the witnesses to be called and when they are to be called and record statements of witnesses.

Mr. Indatissa, PC appears to be under a misapprehension. The officers of the Hon. Attorney General's Department have been assisting this Commission of Inquiry, as provided for under and in terms of section 23 of the Act. They are also entitled to appear before this Commission of Inquiry and place before evidence before this Commission of Inquiry under and in terms of section 26 of the Act and they are empowered to examine any witness summoned by this Commission of Inquiry. It is the Commission of Inquiry, after discussion with the officers of the Hon. Attorney General's Department who are assisting this Commission of Inquiry, which determines the witnesses to be called, determines the time a witness is to be called and issues summons to such witnesses. The recording of statements of witnesses is usually done by the police officers who are also assisting this Commission of Inquiry, as provided for under and in terms of section 23 of the Act. Thus, all the functions referred to by Mr. Indatissa, PC are being carried out by the Commission of Inquiry with the assistance of and through the aforesaid officers who are assisting this Commission of Inquiry and who are appearing before this Commission of Inquiry.

For the aforesaid reasons, we do not agree with Mr. Indatissa's last submission.

We shall now proceed to make our Order with regard to whether Mr. Mahendran and Mr. Palisena are entitled to have their legal representatives present when the data on their mobile communication devices and mobile computer devices is extracted and copied at the Criminal Investigation Department.

Firstly, in making this Order, we take note of the fact that, mobile communication devices and mobile computer devices contain digital data and that such digital data and digital evidence or electronic evidence is fragile and also capable of alternation and manipulation and are liable to disappear without notice. Further, digital data and digital evidence or electronic evidence PC is liable to damage, if improperly handled.

Therefore, it is necessary to ensure that, when digital data is being extracted and copied from mobile communication devices and mobile computer devices which are subject to forensic examinations, procedures are in place to minimize, if not exclude, the possibility of compromising the integrity of the digital data contained in those devices and the possibility of alternation, manipulation or damage to such digital data and/or the devices. Recognized best practices have been developed to meet these needs. It is widely accepted that such best practices should be adhered to when data is extracted and copied from mobile communication devices and mobile computer devices.

In this regard, as mentioned earlier, the officers of the Hon. Attorney General's Department have informed us that, to the best of their knowledge, the Criminal Investigation Department adheres to such recognized best practices when extracting and copying data from mobile devices so as to preserve the integrity of the data and the copies obtained and any evidence that may be obtained therefrom. We have every reason to place reliance on this information. However, since learned counsel appearing for Mr. Mahendran and Mr. Palisena have expressed the desirability of describing what such best practices are, we consider it useful to briefly refer to these best practices.

The documents titled "*Forensic Examination of Digital Evidence: A Guide for Law Enforcement*" and "*ACPO Good Practice Guide for Digital Evidence*" provided to us by Mr Kodagoda, PC, and particularly the Budapest Convention which, *inter alia*, refers to procedural issues relating to the search and seizure of mobile communication devices and mobile computer devices [Article 19 of the Budapest Convention which the Government of Sri Lanka ratified in the year 2015] and the examination of data in such devices show that, these best practices to be adhered to at the stage of extracting and copying data on mobile devices, include:

- ✓ documenting the hardware and software configurations of the equipment used for extraction and copying of data before the extraction and copying of data on the mobile devices is commenced;
- ✓ obtaining a record of the data files in the mobile devices before the extraction of data commences;
- ✓ carrying out the extraction and copying of data on the mobile devices as quickly as possible and without unnecessary or delay;



- ✓ maintaining an audit trail and comprehensive log of all processes that are engaged in during the extraction and copying of data and such audit trail and comprehensive log being capable of revealing any alteration or manipulation or damaging of data, in the event such has taken place;
- ✓ obtaining a record of the data files in the mobile devices at the end of the extraction and copying of data; and including all the aforesaid records, audit trails and logs in the copies obtained.

In this background, we are of the view that, when digital data contained in a mobile device is extracted and copied for the purpose of examination in the course of an investigation or inquiry:

- a. The owner or user of that mobile device has the right to be assured, as far as is reasonably possible, that such best practices are followed when the process of extracting and copying digital data from his mobile devices as far as possible;
- b. Ensure the integrity of that digital data and preserve that digital data;
- c. The owner or user of that mobile device has the right to be assured, as far as is reasonably possible, that any risk of the digital data and digital evidence or electronic evidence being subject to alternation or manipulation or damage is excluded, as far as is reasonably possible;
- d. The owner or user of that mobile device has the right to be assured that, an adequate and comprehensive record will be maintained of the process of extraction and copying of data on the mobile devices and that a copy of that record can be made available to him if he wishes to examine that record, to ascertain whether the integrity of the data has been preserved during the process of the extraction and copying of the data.

In making this Order, we also take note of the fact that, mobile communication devices and mobile computer devices could contain data relating to the owner's or user's personal or private or family life and professional activities which are not directly connected to the matters which are being investigated and inquired.

In the light of this possibility, the principle of “proportionality” should be preserved when data is extracted and copied for the purposes of an investigation and inquiry. Therefore, as far as is reasonably possible, only data which is relevant for the purposes of the inquiry and investigation should be extracted and copied and examined in order to respect the said principle of “proportionality” which is clearly recognized by the Budapest Convention. Therefore, we are of the view that, when digital data contained in mobile communication devices and mobile computer devices is extracted and copied for the purpose of examination in the course of an investigation or inquiry, the owner or user of that mobile device has the right to be assured, as far as is reasonably possible, that only data which is relevant for the purposes of the inquiry and investigation is extracted and copied.

It is to be noted that, if we are to make an Order allowing the aforesaid request made by learned counsel for Mr. Mahendran and Mr. Palisena, we must be first satisfied that, permitting the legal representative to be present is not prohibited by the law or is not contrary to the aforesaid best practices and does not compromise the process of the extraction and copying of data or prejudice this investigation and inquiry .

In this regard, no legislation or regulation which applies in Sri Lanka and is relevant to the issue before us has been brought to our attention by counsel. We are also not aware of any legislation or regulation which in Sri Lanka which is directly applicable to the issue before us. However, we may be able to obtain some guidance from statutory provisions in enactments which relate to evidence obtained from computers and other electronic devices which store and process data.

In the absence of directly applicable legislation or regulations, we must have recourse to relevant material from international sources and should endeavor to reach a decision based on common sense and equity and which seeks to preserve, as far as possible, the rights of the persons concerned and also ensures, the effectiveness of the investigation and inquiry we are engaged in.

In this regard, the documents titled “*Forensic Examination of Digital Evidence: A Guide for Law Enforcement*” and “*ACPO Good Practice Guide for Digital Evidence*” tendered to us by Mr.Kodagoda, PC, do not suggest that we should refrain from permitting Mr. Mahendran’s and Mr. Palisena’s legal representative to be present during the process of the extraction and copying of data. In fact, these documents emphasize the importance of protecting the interests of the owner or user of the devices which are examined.

The decisions submitted to us by Mr. De Livera,PC refer to the examination of Heroin and other substances and objects. However, the processes to be followed when Heroin and other such substances or objects are subject to a forensic examination cannot be compared to the forensic examination of digital data contained in a mobile communication device or mobile computer device. That is because of the danger of the integrity of the digital data and the digital evidence or electronic evidence obtained from the latter process being compromised during the process of the extraction and copying of digital data from the mobile device. Therefore, the risks that are present and must be guarded against in the latter process and the considerations which must be taken into account in the latter process are entirely different from the risks and considerations relevant to the forensic examination of Heroin and other substances and objects. Thus, we do think the decisions submitted to us by Mr. De Livera,PC are of assistance when deciding the issue before us.

At this stage it is important to note that, section 7 of the Evidence (Special Provisions) Act No. 14 of 1994 enables a party against whom “*Computer Evidence*” is to be led, have access to and inspect the machine, device or computer which is used to produce such “*Computer Evidence*”. We also note that, section 18 of the Computer Crime Act No. 24 of 2007 stipulates that where data contained in electronic or similar devices having information processing abilities is searched in the course of an investigation, the investigators should endeavour to ensure, as far as possible, that the search does not hamper the ordinary course of legitimate business for which that device is used. Section 9 of the Payment Devices Frauds Act No. 30 of 2006 is comparable to section 18 of the Computer Crime Act. Further, Section 24 of that Act emphasizes the necessity of

maintaining strict confidentiality with regard to all information that comes to knowledge of an investigator in the course of searches of such devices.

These statutory provisions reflect the desirability of permitting a person against whom digital data or digital evidence or electronic evidence obtained from a device is to be used, to examine the process of obtaining that digital data or digital evidence or electronic evidence. Those provisions also show the desirability of ensuring the confidentiality of the information contained in the devices and to ensure that the process of obtaining that digital data or digital evidence or electronic evidence causes as little disruption as is possible.

In the light of the aforesaid considerations, we are satisfied that, permitting the legal representatives of Mr. Mahendran and Mr. Palisena to be present when the data on the mobile devices is extracted and copied at the Criminal Investigation Department, is not prohibited by the law and is not contrary to the aforesaid best practices.

We also cannot see how the presence of the legal representatives of Mr. Mahendran and Mr. Palisena, at the time the data on the mobile devices is extracted at the Criminal Investigation Department, will compromise the process of the extraction and copying of data or prejudice this investigation and inquiry.

In fact, to the contrary, in the light of the aforesaid considerations and in pursuance of our duty to act in a manner which is fair and equitable and preserves the rights of individuals and also ensures the effectiveness of this investigation and inquiry, we consider that it is desirable that the legal representatives of Mr. Mahendran and Mr. Palisena are present when the data on the mobile devices is extracted at the Criminal Investigation Department. We believe that permitting their presence will further our efforts to ensure that, this investigation and inquiry is carried out fairly, and lawfully and in an impartial and transparent manner.

Accordingly, we are of the considered view that, we should direct that, the extraction and copying of data from Mr. Mahendran's and Mr. Palisena's mobile communication devices and mobile computer devices should be done only in the presence of and in the view of an Attorney-at-Law who represents Mr. Mahendran or Mr. Palisena. That representative

is only permitted to be present and observe the process of the extraction and copying of data. He is prohibited from interfering in or obstructing that process. He is only permitted to take written notes. He is not permitted to photograph or video record the process. An officer of the Hon. Attorney General's Department is also entitled to be present, if he considers it necessary;

Further, in the light of the aforesaid considerations with regard to the principle of proportionality, we consider it necessary to issue a direction that, as far as is technically possible and practical, only data relevant or connected to the matters which this Commission of Inquiry is investigating and inquiring into under and in terms of the Mandate issued to us, is extracted and copied when the extraction and copying of data on Mr. Mahendran's and Mr. Palisena's mobile devices is carried out at the Criminal Investigation Department.

In pursuance of the aforesaid, we make further Orders as follows:

- (i) Mr. Mahendran's and Mr. Palisena's mobile communication devices and mobile computer device should be handed to officers of the Criminal Investigation Department in the presence of the Secretary of this Commission of Inquiry and an Attorney-at-Law who represents Mr. Mahendran or Mr. Palisena;
- (ii) The officers of the Criminal Investigations Department who are extracting and copying the data on these mobile communication devices and mobile computer device should, as far as is possible, confine the process to the extraction and immediate copying of the data. These officers should not independently examine the data other than in so far as is required for the process of the extraction and copying of the data;
- (iii) Throughout the process of the copying and extraction of data at the Criminal Investigation Department, the relevant best practices should be followed including, at a minimum, the best practices referred to earlier;
- (iv) Only three copies of the extracted data should be obtained on three compact discs or other data storage medium. These three compact discs or other storage medium should be immediately sealed and handed over to the

Secretary of this Commission of Inquiry in three separate sealed envelopes in the presence of the legal representative of Mr. Mahendran or Mr. Palisena;

- (v) Once the process of extraction and copying of data is completed, Mr. Mahendran's and Mr. Palisena's mobile communication devices and mobile computer devices should be immediately sealed and handed over to the Secretary of this Commission of Inquiry in sealed envelopes in the presence of the legal representative of Mr. Mahendran or Mr. Palisena. These mobile computer devices will be retained in those sealed envelopes in the custody of the Secretary of this Commission of Inquiry until Mr. Mahendran or Mr. Palisena complete giving evidence since a need to examine these devices may arise in the course of their evidence. These mobile communication devices and mobile computer device will be handed back to Mr. Mahendran or Mr. Palisena when this Commission of Inquiry so directs;
- (vi) A accurate and comprehensive record of all procedures followed in the process of the extraction and copying of data should be made available to the Commission of Inquiry, if called for;
- (vii) Two of the compact discs or other data storage medium are to be retained by the Secretary of this Commission of Inquiry, under sealed cover as received by him at the Criminal Investigation Department. One such compact disc or other data storage medium will be made available to Mr. Mahendran or Mr. Palisena by the Secretary of this Commission of Inquiry, upon request.
- (viii) As agreed between counsel, the other compact disc or other data storage medium is to be handed by the Secretary of this Commission of Inquiry, under sealed cover as received by him at the Criminal Investigation Department, to Mr. Kodagoda, PC, Additional Solicitor General, for examination by him and by the members of this Commission of Inquiry with his assistance.

Before concluding this Order, we wish to mention that, in the event of evidence obtained from the process of extracting and copying data from mobile communication devices and mobile computer device being placed before this Commission of Inquiry, the value of any

such evidence will be dependent on this Commission of Inquiry being satisfied with regard to the integrity and reliability of any such evidence obtained from a process of extraction and copying.

It must be clearly understood that this order and the procedure and entitlements referred to herein is confined in scope and applicability to only these proceedings before this Commission of Inquiry under Act No. 17 of 1948, as amended, and the examination of mobile communication devices and mobile computer devices under the provisions of the said Act for the purpose of carrying out the mandate of this Commission of Inquiry. This order has no application or relevance whatsoever to any proceedings in any court of law under the Code of Criminal Procedure Act or Civil Procedure Code or other Law or the interpretation or application of other legislation.

**Justice K.T.Chitrasiri**  
**Chairman**  
**Commission of Inquiry**

**Justice Prasanna Jayawardena**  
**Member**

**Mr.K.Velupillai**  
**Member**



**COMMISSION OF INQUIRY  
INQUIRING INTO THE ISSUANCE OF TREASURY BONDS**

13<sup>th</sup> September, 2017

**ORDER**

The Mandate issued to this Commission of Inquiry by His Excellency, the President requires this Commission of Inquiry to investigate, inquire into and report on the several matters specified in the Mandate. This requires the Commission of Inquiry, *inter alia*, to investigate, inquire into and report on several transactions relating to Treasury Bonds which took place during the relevant period. Perpetual Treasuries (Pvt) Ltd was a party to many of these transactions.

Mr. Arjun Aloysius is said to be a principal shareholder and a director of the ultimate owning Company of Perpetual Treasuries (Pvt) Ltd. Mr. Aloysius is said to have been the Chief Executive/Managing Director of Perpetual Treasuries (Pvt) Ltd until early 2015. He is said to have exercised a significant degree of control over Perpetual Treasuries (Pvt) Ltd, after that time too and during the period referred to in the Mandate issued to us.

During the course of the hearings of this Commission of Inquiry in pursuance of this Mandate, Mr. Kalinga Indatissa, PC entered an appearance for Mr. Aloysius and stated that he was doing so under the provisions of section 16 of the Commissions of Inquiry Act. Sometime later, Mr. Indatissa informed the Commission of Inquiry that he had ceased to appear for Mr. Aloysius. Thereafter, Mr. Anuja Premaratne, PC appeared for Mr. Aloysius, also under the provisions of section 16 of the Commissions of Inquiry Act.

Up to now, the Commission of Inquiry has heard the evidence of 50 witnesses. These witnesses include approximately 20 witnesses from the Central Bank of Sri Lanka, officials of the Employees Provident Fund including Mr. Saman Kumara who functioned as a dealer at the Employees Provident Fund, the Chief Dealer/Treasury Manager of Pan Asia Banking Corporation, the Chief Dealer/Treasury Manager of Bank of Ceylon, witnesses from Companies which functioned as Primary Dealers, officials from the Treasury and three officers of Perpetual Treasuries (Pvt) Ltd. A very large number of documents have been produced.

The evidence that is now before us, by way of the testimony of witnesses, documents and several audio recordings, has made it desirable that the Commission of Inquiry requires Mr. Aloysius to give evidence with regard to several matters relating to Perpetual Treasuries (Pvt) Ltd including, *inter alia*: (i) the reasons for Perpetual Treasuries (Pvt) Ltd bidding for large amounts of Treasury Bonds at some Auctions of Treasury Bonds; (ii) transactions on the Secondary Market of Treasury Bonds which Perpetual Treasuries (Pvt) Ltd obtained by successful bids at Auctions of Treasury Bonds; (iii) the dealings and relationship which existed between officers of Perpetual Treasuries (Pvt) Ltd and some officers of the Central Bank of Sri Lanka; (iv) the dealings and relationship which existed

between officers of Perpetual Treasuries (Pvt) Ltd and some officers of the Employees Provident Fund, Pan Asia Banking Corporation PLC and some other Primary Dealers; (v) whether Perpetual Treasuries (Pvt) Ltd was in possession of information relevant to Auctions of Treasury Bonds which was not available to other Primary Dealers; and (vi) the profits and/or capital gains received by Perpetual Treasuries (Pvt) Ltd as the result of the aforesaid transactions on Treasury Bonds and the disposal of these profits and/or capital gains by way of dividends, fund transfers and transfers of profits (if any) and investments.

In addition, the evidence that is now before us, by way of the testimony of witnesses, documents and several audio recordings, has made it desirable that the Commission of Inquiry requires Mr. Aloysius to give evidence with regard to several matters which are directly within his personal knowledge, including, *inter alia*: (i) (the ownership, control and structure of the group of Companies of which Perpetual Treasuries (Pvt) Ltd is a member; (ii) the role played by Mr. Aloysius in applying for and obtaining a Primary Dealer's License from the Central Bank of Sri Lanka; (iii) the role played by Mr. Aloysius in preparing the Business Plan of Perpetual Treasuries (Pvt) Ltd which was submitted to the Central Bank of Sri Lanka at the time Perpetual Treasuries (Pvt) Ltd applied for a Primary Dealer's License and the subsequent Business Models followed by Perpetual Treasuries (Pvt) Ltd; (iv) the role played by Mr. Aloysius in the day to day operations of Perpetual Treasuries (Pvt) Ltd while he was the Chief Executive of that Company;(v) the reasons for Mr. Aloysius resigning from the post of Chief Executive of Perpetual Treasuries (Pvt) Ltd; (vi) the role played by Mr. Aloysius in the day to day operations of Perpetual Treasuries (Pvt) Ltd after he resigned from the post of Chief Executive of that Company; (vii) the profits and/or capital gains received by Perpetual Treasuries (Pvt) Ltd and the disposal of these profits and/or capital gains by way of dividends, fund transfers and transfers of profits (if any) and investments; (viii) the audio recordings of telephone conversations which are said to have taken place between Mr. Aloysius and Mr.Kasun Palisena with regard to Auctions of Treasury Bonds held in March 2016 and the matters discussed therein including the information which Mr. Aloysius is said to have claimed, he possessed with regard to those Auctions; (ix) the role played by Mr. Aloysius with regard to the Fine imposed by the Central Bank of Sri Lanka on Perpetual Treasuries (Pvt) Ltd in April 2016 after the aforesaid Auctions; (x) the nature of the relationship between Mr. Aloysius and some officers of the Central Bank of Sri Lanka; (xi) the nature of the relationship between Mr. Aloysius and Mr. Arjuna Mahendran, the previous Governor of the Central Bank of Sri Lanka; (xii) the nature of the relationship between Mr. Aloysius and some officers of the Employees Provident Fund including Mr. Saman Kumara and Mr. Navin Anuradha; (xiii) the nature of the relationship between Mr. Aloysius and Mr. Nimal Perera, the previous Chairman of Pan Asia Banking Corporation PLC and the resulting transactions on Treasury Bonds entered into by Pan Asia Banking Corporation; (xiv) the reasons for Mr. Aloysius telephoning Mr. Richie Dias of Pan Asia Banking Corporation PLC during the period when Mr. Dias was furnishing his statement to the Commission of Inquiry; and

(xv) the reasons for Mr. Aloysius leasing an apartment which was occupied by Mr. Ravi Karunanayake and family.

We are of the view that, Mr. Aloysius is in a position to provide valuable and relevant evidence to the Commission of Inquiry with regard to the aforesaid matters and other matters falling within the scope of the investigation and inquiry required by the Mandate issued to the Commission of Inquiry.

We are also of the view that, Mr. Aloysius should be given the opportunity to provide his explanations and clarifications and other responses with regard to several of the aforesaid matters which have transpired from the evidence that is now before us by way of the testimony of witnesses, documents and several audio recordings.

For the aforesaid reasons, on 11<sup>th</sup> September 2017, the Commission of Inquiry issued Summons, under and in terms of section 7 of the Commissions of Inquiry Act, requiring Mr. Aloysius to give evidence today.

On 11<sup>th</sup> September 2017, Mr. Gamini Marapana, PC appeared for Mr. Aloysius and submitted that his client objects to giving evidence before the Commission of Inquiry. Mr. Marapana cited to us Article 3, Article 13 (3) and Article 13 (5) of the Constitution and emphasized that every person is entitled to a fair trial by a competent court and that every person is presumed innocent until he is proved guilty. Mr. Marapana stressed on the power given to the Commission of Inquiry by section 7 (2) of the Commissions of Inquiry Act to make recommendations with regard to action that it considers necessary to be taken against persons whose conduct is the subject of the inquiry or investigation or who is in any way implicated or concerned in the matter which this Commission of Inquiry is investigating and inquiring into. Mr. Marapana also voiced concerns with regard to the provisions of section 24 of the Commissions of Inquiry Act which empower the Hon. Attorney General to institute criminal proceedings in respect of any offence on material collected in the course of the investigation and inquiry carried out by this Commission of Inquiry.

Thereafter, Mr. Marapana, PC submitted that, it is a fundamental provision of our Law that, an accused person cannot be made to incriminate himself. He submitted that, it is a guiding principle of the Law of Evidence that, every person is protected from self-incrimination. In support of this submission, Mr. Marapana cited the judgment of Gratien J in DE MEL vs. HANIFFA [53 NLR 433], the judgment of Jayetilleke J in KARUNATILLEKE vs. AMEEN [44 NLR 213] and also mentioned the Miranda Rule enunciated by the U.S. Supreme Court in MIRANDA vs. STATE OF ARIZONA, which includes the right to remain silent and refuse to answer questions.

Thereafter, Mr. Marapana, PC stated that, in the event his client is compelled to give evidence, it may well be that evidence is elicited from his client which may tend to incriminate him and that his client has received legal advice to the effect that it is not in his interests to give evidence. In this connection, Mr. Marapana went on to state that,

there is every possibility of a charge or indictment being made against his client subsequent to giving evidence. Mr. Marapana submitted that compelling his client to give evidence may prejudice his client's right to a fair trial in the event of him being prosecuted for an offence or offences. Mr. Marapana concluded that, in these circumstances, his client is unwilling to give evidence and that, as a matter of Law, his client cannot be compelled to give evidence against his wishes.

Mr. Marapana, PC submitted that, by operation of the aforesaid established principle of the Law, a person who is accused of an offence cannot be compelled to give evidence, and that, therefore, this Commission of Inquiry should not compel Mr. Arjun Aloysius to give evidence.

In support of his submissions, Mr. Marapana, PC also cited the decision of the Supreme Court in COORAY vs. DIAS BANDARANAIKE [1999 1 SLR 1] in which the Supreme Court quashed several determinations made by a Special Presidential Commission of Inquiry appointed under the Special Presidential Commissions of Inquiry Law No. 07 Of 1978. As Mr. Marapana submitted, in this case, His Lordship, Justice Dheeraratne highlighted the duty cast on the members of a Commission of Inquiry to act in a manner which will bring to bear such legal training and judicial experience as the members of a Commission of Inquiry may possess and to act, in the words of Edmund Burke, "*with the cold neutrality of an impartial judge*" and **fairly**.

In reply, Mr. Dappula De Livera, PC, Acting Solicitor General, highlighted the fact that, this Commission of Inquiry has been appointed under the Commissions of Inquiry Act No. 17 of 1948 unlike the Special Presidential Commission of Inquiry in COORAY vs. DIAS BANDARANAIKE which had been appointed under the Special Presidential Commissions of Inquiry Law No. 07 Of 1978. Mr. De Livera drew our attention to the significant difference in section 16 of the Special Presidential Commissions of Inquiry Law No. 07 Of 1978 which, *inter alia*, provides for a Special Presidential Commission of Inquiry to inform a person that, the conduct of that person is the subject of inquiry or is implicated or concerned in the matter under inquiry and, on the other hand, section 16 of the Commissions of Inquiry Act No. 17 of 1948 under which this Commission of Inquiry has been appointed, which does not contain a similar provision enabling or requiring this Commission of Inquiry to inform any person that the conduct of that person is the subject of inquiry or is implicated or concerned in the matter under inquiry.

Mr. De Livera, PC submitted that, the proceedings before this Commission of Inquiry are inquisitorial in character and, therefore, different from proceedings in a criminal case which are accusatorial and adversarial in character. Mr. De Livera submitted that, this Commission of Inquiry can only report on the facts and cannot convict any person of an offence. He emphasized that, Mr. Aloysius may be convicted in criminal proceedings only in the event of an appropriate case being filed against him in respect of an offence in some other proceeding in a Court of Law and not before this Commission of Inquiry. He

submitted that, for these reasons, the principle of Law that an accused cannot be compelled to give evidence, has no applicability before this Commission of Inquiry.

Mr. De Livera, PC submitted that, section 7 of the Commissions of Inquiry Act vests this Commission of Inquiry with ample power to summon Mr. Aloysius to give evidence and to require and compel him to give evidence.

Mr. De Livera, PC forcefully urged that, Mr. Aloysius was a necessary witness and that this Commission of Inquiry must compel him to give evidence if we are to fully discharge and fulfill our Mandate.

We have given careful consideration to the submissions made by Mr. Marapana, PC and Mr. De Livera, PC, Acting Solicitor General.

At the outset, we wish to place on record that, this Commission of Inquiry has, from its commencement, endeavoured to be mindful of the duty cast on us, in the words of His Lordship, Justice Dheeraratne in COORAY vs. DIAS BANDARANAIKE, to act “fairly” and “with the cold neutrality of an impartial judge”. We would add that, it is implicit that we have a duty to act equitably. Further, throughout these proceedings, we have endeavoured to stay within the confines of the Law. In making this Order, we intend to continue in the same vein.

We are mindful of the established rule of the Criminal Law that, an accused cannot be compelled to give evidence. While an accused can chose to give evidence on his own behalf, the Law prohibits him being compelled to give evidence. This rule derives from section 4 of the Ordinance No. 09 of 1852 of the English Law which stated that, “no accused person shall be competent or compelled to give evidence for or against himself.”. The rule is partly reflected in section 120 (6) of our Evidence Ordinance which states that, “In criminal trials the accused shall be a competent witness **on his own behalf** ....”. [emphasis added]. The resulting position is that, the English Law rule that an accused cannot be compelled to give evidence, prevails in our Law too, by operation of section 100 of the Evidence Ordinance.

Thus, in our Law, it has been the ruled from 1904 onwards, as held in SIMON APPUHAMY vs. ROWEL APPU [1904 1 Bal. R 44] that, an accused person cannot be compelled to give evidence on his own behalf. In KING vs. THURIAPPA [8 NLR 70] it was held that, a Judge cannot act under section 120 of the Evidence Ordinance and force an accused into the witness box. In the case of KARUNATILLEKE vs. AMEEN cited by Mr. Marapana, PC, Jayetilleke J referring to section 120 (6) of the Evidence Ordinance stated, “This sub-section did not alter the Common Law rule that an accused person cannot, in a criminal case, be called as a witness by the prosecution or by a co-accused. Indeed, it may even be said that the sub-section by specifying the case in which an accused person shall be competent to testify impliedly enacted that he shall in all other cases be incompetent to testify. It seems to me quite impossible to take any other view on any proper principle of construction.” In DE MEL vs. HANIFFA, which was also cited



by Mr. Marapana, Gratien J held “As I have previously stated, an accused person in Ceylon stands in the same position as an accused person in England with regard to his **non-compellability as a witness against himself.**”. As stated in Phipson on Evidence [16<sup>th</sup> ed. p.222], “A person charged in criminal proceedings is a competent witness for the defence at every stage of those proceedings, but is not competent to give evidence for the prosecution in those proceedings (whether he is the only person, or is one of two or more persons, charged in the proceedings). Such a person cannot be called as a witness except upon his own application, though in certain circumstances inferences may be drawn from his refusal to give evidence in his own defence. However, the fact that such inferences may be drawn does not render a defendant compellable to give evidence on his own behalf, and he shall accordingly not be guilty of contempt if he refuses to give evidence in his own defence.”. . As stated in Cross on Evidence [6<sup>th</sup> ed. at p. 194], “The general rule is that the accused is not a competent witness for the prosecution in any criminal case..... In R. vs. Grant and R. vs. Sharrock committals were quashed because one co-prisoner had been called on behalf of the prosecution at the preliminary examination. In so far as these cases decided that an indictment based on inadmissible evidence is necessarily bad, they have been overruled, but they still serve as a warning to over zealous prosecutors.”.

Since the rule that an accused cannot be compelled to give evidence is well established and must be followed, the remaining question is whether that rule can or should be applied to the proceedings before this Commission of Inquiry which are not criminal in character. Instead, as Mr. De Livera, PC cogently emphasized, the proceedings before this Commission of Inquiry are of a fact finding character.

In order to determine whether, despite this Commission of Inquiry being engaged in a fact finding exercise, we should consider whether the rule that an accused cannot be compelled to give evidence, ought to be applied to Mr. Arjun Aloysius, we must examine section 16 of the Commissions of Inquiry Act in terms of which Mr. Marapana, PC appears for Mr. Aloysius.

Section 16 of the Commissions of Inquiry Act envisages three categories of persons – namely, (i) persons who are implicated in the matter under inquiry; (ii) persons who are concerned in the matter under inquiry; and (iii) persons who consider it desirable that they should be represented.

The submissions made by Mr. Marapana, PC that his client might incriminate himself if he is compelled to give evidence and that there is every possibility of a charge or indictment being made against his client in the event of and subsequent to his client giving evidence, lead us to conclude that, Mr. Aloysius must consider himself as a person who is “*implicated in*” the matter under inquiry, as contemplated by section 16.

Mr. Marapana, PC has gone on to state that, as a result of the aforesaid position, his client has received legal advice that it is not in his client’s interests to give evidence and that, in these circumstances, his client is unwilling to give evidence.

In those circumstances, we are obliged to be mindful of the possibility that, in the event Mr. Aloysius is compelled by this Commission of Inquiry to give evidence and his evidence is taken into consideration at the stage of preparing the report of this Commission of Inquiry, a question will arise as to whether or not any recommendation which may be made under section 7 (2) of the Commissions of Inquiry Act to take action against Mr. Aloysius and/or any proceedings that may be instituted by the Hon. Attorney-General in pursuance of section 24 of the Commissions of Inquiry Act, had its origins, at least partly, upon evidence which Mr. Aloysius was compelled to give.

If the answer to such a question is in the affirmative - *ie:* that the evidence which Mr. Aloysius was compelled to give by this Commission of Inquiry resulted in him being prosecuted for one or more criminal offences - this Commission of Inquiry would have acted in disregard of the established and well founded rule of Law that an accused cannot be compelled to give evidence. We do not consider it fitting to depart from this rule of the Law by adopting the somewhat artificial device of compartmentalizing these proceedings from a criminal prosecution which may ensue and which, apparently, Mr. Aloysius considers likely to ensue. If this Commission of Inquiry were to engage in such an exercise of tortuous compartmentalizing and compel Mr. Aloysius to give evidence against his wishes, instead of this Commission of Inquiry acting with "*cold neutrality*" and fairness and applying the aforesaid well founded rule of the Law in spirit and as well as in practice, we may

tempt a charge that all those who were responsible for compelling Mr. Aloysius to give evidence against his wishes and against the advice of his Counsel, were "*over zealous*", in the words of Sir Rupert Cross, cited earlier.

We are mindful of the effect of section 132 (2) of the Evidence Ordinance which specifies that, no answer which a witness is compelled by a Court to give shall subject him to any arrest or prosecution or be proved against him in any criminal proceedings, except a prosecution for giving false evidence and also of the provisions of section 14 of the Commissions of Inquiry Act which bears the side note "*Special immunity of witnesses*" and provides that no person shall be liable to any action, prosecution or other proceedings in any civil or criminal court in respect of evidence given before this Commission of Inquiry other than in respect of offences falling under Chapter XI of the Penal Code – *ie:* Offences of giving False Evidence and Offences against Public Justice.

We are, in particular, conscious of Justice Dheeraratne's statement in COORAY vs. DIAS BANDARANAIKE, with regard to the Commissions of Inquiry Act No. 17 of 1948 under which this Commission of Inquiry was established, that, "*..... it is interesting to reflect upon how great judges of this court, injected into commission proceedings a degree of fairness, particularly before labeling a person as a criminal. They were quite conscious, being public functionaries on whom enormous powers were vested by law, of the fact that 'it is excellent to have a giant's strength, but it is tyrannous to use it like a giant' (Measure for Measure).*".



In these circumstances, we are not inclined to compel Mr. Aloysius to give evidence if he is unwilling or refuses to do so. While Mr. Aloysius is a competent witness, he is not, in our view, a compellable witness if he states that he is unwilling or refuses to give evidence for the reasons referred to by Mr. Marapana,PC.

While we fully appreciate and agree with Mr. De Livera's submission that, Mr. Aloysius is a necessary witness and that Mr. Aloysius should give evidence to facilitate this Commission of Inquiry fully discharging and fulfilling our Mandate, we are not willing to depart from established and salutary principles of Law in the pursuit of our efforts and commitment to achieve our Mandate. If Mr. Aloysius is unwilling or refuses to give evidence and does not wish to utilise the opportunity given to him to explain and clarify and give his responses to the matters referred to above and other concerns of this Commission of Inquiry, we will be compelled to proceed on the basis of the evidence we have.

We wish to emphasize that, while this Commission of Inquiry is committed to fulfilling and discharging our Mandate, we are duty bound to act lawfully when doing so. The Rule of Law must take precedence over any considerations of public interest.

In conclusion, we wish to make it plainly clear that, in our view, Mr. Aloysius is required to give evidence. This Commission of Inquiry considers that his evidence is relevant and material and also that we should give him the opportunity to explain the matters referred to above and other concerns of this Commission of Inquiry. We have, therefore, summoned him to appear before us today and give evidence.

Therefore, Mr. Aloysius is hereby directed to appear before us in response to the Summons served on him and to give evidence today or on such other day or days as this Commission of Inquiry may fix.

However, if Mr. Aloysius is unwilling or refuses to give evidence, his Counsel is entitled, at that stage, to make an application to the effect that, his client is unwilling or refuses to give evidence and that, therefore, on an application, *mutatis mutandis*, of the rule of the Law that an accused cannot be compelled to give evidence, which Mr. Marapana,PC has relied on when he took that same objection, Mr. Aloysius must not be compelled to give evidence. In the event, Counsel for Mr. Aloysius choses to make such an application, we will be duty bound to act in terms of that rule of the Law and refrain from compelling Mr. Aloysius to give evidence.

**Justice K.T. Chitrasiri**  
**Chairman**  
**Commission of Inquiry**

**Justice Prasanna Jayawardena**  
**Member**

**Mr. K. Velupillai**  
**Member**