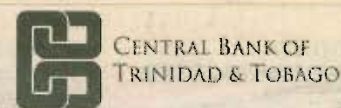


## PRESS RELEASE

**Central Bank's Response  
to CLICO Policyholders Protection Association**  
October 27, 2010


The Central Bank of Trinidad and Tobago received a letter dated September 23, 2010 from RLM and Company, Attorneys-at-Law on behalf of the CLICO Policyholders Protection Association. Copies of that letter were sent to the media and excerpts were published in the daily newspapers.

The Central Bank responded to this letter on October 25, 2010. This response ("the Bank's Response") explains the Bank's statutory role in relation to insurance companies, emphasizing three salient facts:

- (i) The nature of the systemic risk which threatened the national economy in 2009, prompting the Bank's intervention to assume control of CLICO.
- (ii) The decisions taken at the time, and the public statements made by the Bank then and over time, were in the Bank's judgment, required to manage public confidence in the financial system. The systemic risk carried implications calling for urgent decisions by the Bank based on the best information available, taking into consideration the resources being provided by the Government.
- (iii) At no time, either before 2004 (from which year Parliament gave to the Bank statutory control over insurance companies) or since, has the Bank ever had the statutory power to provide financial assistance to insurance companies.

Below is a more detailed summary of points made by the Bank in response to the RLM letter.

That the RLM letter states, inter alia:

1. That since January 30, 2009 and thereafter, the Bank has made several representations to CLICO policyholders to the effect that their "investments are safe"; that "CLICO would be restored fully and made profitable after restructuring and policyholders were encouraged to wait until the maturity date of their investments and in fact to 'rollover' their deposits".
2. That these alleged representations amounted to "express assurance" (given by the "government" and the Bank) that policyholders' funds were "guaranteed" and that, "the terms and conditions of existing policy contracts would be honoured".
3. That contrary to these "representations" and "assurances" the recent 2010 budget statement of the Minister of Finance, (a) will amount to wrongful "deprivation" of clients' property, (b) was made "without consultation" and amounts to a change of an "existing policy", (c) represents an arrogation by the Minister unto himself of a power (in relation to CLICO) which only the Bank may exercise.

The Bank has responded as follows:

- Notwithstanding its statutory independence and the responsibilities of the Bank in respect of the exercise of its emergency powers under Section 44D of the Central Bank Act, Chap 79:02 in relation to CLICO, the **Bank is not empowered under any of its governing statutes to provide financial assistance to insurance companies**. Hence, any financial assistance which may be provided to insurance companies cannot come from the Bank.
- In the particular circumstances of CLICO, financial assistance was to come from the parent company CL Financial Limited and the Government as is evident from the terms of the Memorandum of Understanding entered into between the Republic of Trinidad and Tobago (GORTT) and CL Financial (MOU) on January 30, 2009. In the resolution strategy formulated for CLICO, **the limits of the statutory role of the Bank were to take policy and management actions to support the financial assistance provided by GORTT with a view to protecting the interest of policyholders**.
- Statements made by the Bank in the period January 2009 and continuing thereafter into 2010 were made consistent with the Bank's statutory role. These statements were based on the best information available, particularly in respect of the financial strength of CLICO and CL Financial.
- The January 30, 2009 statement by the Bank was made at the time of the signing of the MOU and was based on available information (provided by CLICO and CLF) and in the context of the systemic threat which was posed to the national economy of Trinidad and Tobago. There was an urgent need to take measures to arrest the potential contagion risk as well as to stabilise the confidence of the public in the financial system. The Bank's statutory concern for financial stability included seeking to secure the best arrangement for depositors and policyholders.
- From around February 13, 2009 (the day the Bank assumed control of CLICO) statements of the Bank began **to reflect a better understanding of the finances of CLICO and CL Financial**. In these statements, the Bank sought to explain the real situation of CLICO/CLF and tried to manage policyholders' expectations about the pace of the recovery of their funds. Thus, for example in October to November 2009, policyholders of maturing policies were asked to agree to accept payment on a phased basis.
- In a media briefing on March 24, 2010 the Bank, by its Governor, noted that *"CLF assets were far more leveraged than first thought and that the contribution expected from the sale of these assets in the short to medium term would be less than expected."*
- That statement also noted that the Bank had commissioned a restructuring consultant to provide options for CLICO going forward. It was explained that based on the GORTT injection of \$5 billion received up to that time **all the options being proposed by the consultant called for extensions for the period of payment while looking for ways to ease the burden on the smaller policyholders**. The data suggested that it may be possible to devise a plan to pay off policy holders with policies of under \$100,000 with a minimum amount of delay. In the case of the others, CLICO and the consultants were examining how the maturity periods would need to be extended under various assumptions. The Governor concluded that *"for all, the better option may be to reach agreement, in a collective way, with all policyholders, so that we could maximize the level of recovery in the shortest possible time."*
- It was also explained that without Government's intervention, not only would there have been a significant contagion impact on the economy as a whole but CLICO would have been vulnerable to winding up action. In these circumstances, policyholders would have suffered significant losses.
- In the statements of the Bank made over the period 2009 to 2010, it was not reasonable for policyholders to have interpreted those statements of the Bank **as constituting a clear and unambiguous representation** that all policy contracts would be honoured in accordance with the full terms and conditions thereof. Rather, the Bank, working together with the GORTT, was seeking to assure that, in the developing situation, the CLICO policyholders would have been offered the best possible protection subject to reasonable public policy constraints.
- In any event, the Bank was not able in law to give any binding assurance of the nature claimed since, the Bank had no power to provide financial assistance to CLICO but was conveying and supporting the financial resolution strategy of the GORTT, in the best interests of policy holders.
- The Bank considers the latest CLICO proposal announced in the 2010 budget to be an offer of an option of financial assistance to policyholders which is not inconsistent with the Bank's efforts to find an acceptable solution in the changed circumstances.
- In response to a directive issued by the Minister of Finance pursuant to his powers under section 44F(5) of the Central Bank Act, the Bank directed CLICO to put into effect a **moratorium** in respect of EFPA payments in the context of the GORTT payout offer. Section 44F(5) of the Central Bank Act, specifies that "in the performance of its functions, and in the exercise of its powers under Section 44D, the Bank may be given general or specific directions by the Minister and the Bank shall comply".
- The Bank is not in a position to answer the allegation that GORTT failed to consult with policyholders in formulating this proposal, but notes the recent discussions between policyholders' representatives and an appointed team of Government Ministers.
- As required under section 44D of the Central Bank Act, the Bank is committed to take all steps it considers necessary to protect the interests and preserve the rights of policyholders and creditors of CLICO. The Bank reiterates that in the absence of GORTT financial assistance, the available options are less favourable given the current difficult financial circumstances of CLICO and CL Financial.
- The Bank notes that there have been questions about the regulatory actions taken by the Central Bank in respect of CLICO prior to this crisis. While the Bank has been advised to be sensitive to the litigious circumstances in which it now finds itself, the Bank will seek to address this issue at an appropriate time, subject to counsel from its legal advisors.