

ORAL ANSWERS TO QUESTIONS

BRAMER BANK & BRITISH AMERICAN INSURANCE (MAURITIUS) LTD – RECEIVERS & CONSERVATORS – APPOINTMENT

The Leader of the Opposition (Mr P. Bérenger) (*by Private Notice*) asked the Minister of Finance and Economic Development whether, in regard to the revocation by the Bank of Mauritius of the banking licence of the Bramer Bank and the appointment of conservators to take charge of the British American Insurance (Mauritius) Ltd. by the Financial Services Commission, he will –

- (a) for the benefit of the House, obtain information as to –
 - (i) the number of employees, depositors, insurance policyholders and shareholders concerned therewith, and
 - (ii) why receivers were appointed regarding the Bramer Bank and conservators were appointed regarding the British American Insurance (Mauritius) Ltd., and
- (b) state the measures being taken to protect –
 - (i) the employees, the depositors and the pension policyholders concerned therewith, and
 - (ii) the image of Mauritius as an international financial hub.

Mr Lutchmeenaraidoo: Madam Speaker, at the very outset, I would like to state that we are dealing with a crisis of national proportion that goes well beyond party politics. I kept the hon. Prime Minister fully informed from day one. He not only gave me his full support, but also decided that we should move immediately and not wait until the situation gets out of control.

The Cabinet was also fully supportive of this approach as well as all Members of the National Assembly on the majority side.

As it is a national issue, I also decided to brief the hon. Leader of the Opposition who was fully conscious of the ramifications of such a Ponzi Scheme and the earthquake effect that this crisis could have on our financial system and country at large. I wish to thank him for having understood the need for a non-partisan approach to deal with this crisis.

I also wish to thank the media. I have personally shared with the Editors-in-Chief the unfolding of this crisis and its seriousness and they have played their role in an objective and responsible manner.

Madam Speaker, before answering the question, I would like to briefly highlight the main events that led to the revocation of the banking licence of the Bramer Bank by the Bank of Mauritius.

Following its last on-site examination at the Bramer Bank, from 22 January to 20 February 2015, the Bank of Mauritius had noted a number of serious deficiencies which it conveyed to Bramer Bank on 27 February 2015.

Bramer Bank had failed to comply with statutory requirements and a number of guidelines to ensure safety in banking. All these deficiencies could undermine the financial soundness and pose serious systemic risks to the domestic financial system.

On 27 February 2015, the Bank of Mauritius required Bramer Bank to inject fresh capital of Rs3.5 billion by 31 December 2015, in a phased manner. This was to start with an initial capital injection of Rs350 m. by 31 March 2015.

Concurrently, the Bank of Mauritius imposed a restriction on Bramer Bank in respect of the grant of new credit facilities to related parties. This restriction was motivated by the need to preserve and protect the interests of depositors.

On 24 March 2015, Bramer Bank notified the Bank of Mauritius about the continuing pressure on its liquidity position. The situation deteriorated further when Bramer Bank could not raise funds from the interbank market.

Initially, it had been borrowing from the domestic interbank money market on an *ad hoc* basis. But as from 23 January 2015, it had been borrowing on a daily basis.

As banks scaled down their interbank lending to Bramer Bank, as from mid-February 2015, the latter resorted to overnight credit facilities from the Bank of

Mauritius. It had been relying heavily and continuously, on a daily basis, since 06 March 2015 on overnight facility from the Central Bank as lender of last resort.

Bramer Bank also failed to maintain the minimum cash reserve requirement as from 05 March 2015.

Bramer Bank also requested the Bank of Mauritius to provide it with a special line of credit of Rs1.0 billion to meet its persistent liquidity shortfall against security of immovable properties.

As such a move would further increase its related party exposure, and because the request was outside the scope of its regulatory authority, the Bank of Mauritius informed Bramer Bank, on 26 March 2015, that its request for the special line of credit could not be acceded to.

On 27 March 2015, Bramer Bank apprised the Bank of Mauritius that there were massive withdrawals of deposits and that its liquidity situation had seriously deteriorated.

Bramer Bank failed to comply, by the deadline of 31 March 2015, with the requirement of injecting a first instalment of fresh capital of Rs350 m.

On 01 April 2015, the Bank of Mauritius took note of the leakage of an internal confidential note, addressed to the senior management of Bramer Bank, in the public domain, which stated that –

“The Board of Directors of the bank has decided that no premature encashment of deposits shall be allowed with immediate effect”.

This leakage further amplified the loss of public confidence in Bramer Bank exposing it to a run on its deposits. The Bank of Mauritius was receiving numerous phone calls from the public enquiring about the soundness of the bank.

The likelihood of the liquidity crisis in which Bramer Bank was trapped became increasingly evident. The Bramer Bank was on the verge of collapse.

In the light of information to the effect that the run on Bramer Bank had started gathering momentum, the Bank of Mauritius, as the authority responsible for regulating the banking sector, decided to revoke the Banking licence of Bramer Bank on 02 April 2015, under section 17 of the Banking Act 2004. This decision had to be taken expeditiously to protect the interest of depositors and the public at large. This was in line with Bank of Mauritius duty to preserve and protect confidence in the stability of the financial system.

On the same day, the Board of Directors of the Bank of Mauritius appointed Messrs André Bonieux and Mushtaq Oosman as receivers pursuant to section 75 of the Banking Act 2004.

Following the financial difficulties faced by Bramer Bank which led to the cessation of its banking activities, a total of Rs5.25 billion of debentures held directly and indirectly by the BAI Co. (Mtius) Ltd. have consequently been impaired. This caused the solvency margin of the insurer to be deficient.

The FSC had, therefore, the responsibility to safeguard the assets of the BAI and protect the policyholders. It did so by appointing Messrs Mushtaq Oosman and André Bonieux of PWH as Conservator of BAI, pursuant to section 106 of the Insurance Act 2005.

Madam Speaker, as regards part (a) of the question, I am informed that the situation is as follows concerning the Bramer Bank –

- 401 employees
- 50,524 depositors holding 64,403 accounts
- 1,578 shareholders, of which 4 Special Purpose Vehicles wholly owned by the British American Investment (Mtius) Ltd and which held a total of 74 percent of Bramer Bank. In addition, BAI Co. (Mtius) Ltd held 5.3 percent of Bramer Bank through Bramer Property Fund Ltd.

Madam Speaker, information now as regards the BAI, it has 407 full-time employees and 895 insurance agents and sales persons. The BAI has 159,458 policies, of which 24,175 are in respect of Single Premium Endowment Policies – “THE NOTORIOUS SUPER CASH-BACK GOLD SCHEME” - and the balance of 135,283 are Recurring Premium Insurance and Pension Policies.

The BAI Co. (Mtius) Ltd is a wholly owned subsidiary of British American Investment Co (Mtius) Ltd. The ultimate holding company of BAI is KLAD Investment Corporation Ltd incorporated in Bahamas.

As regards part (b) of the question, I am informed by the Bank of Mauritius that the basic reason for having recourse to Section 17 of the Banking Act 2004 and not Section 65 of the Act which refers to the appointment of a Conservator was guided by the consideration that the Bramer Bank was already facing a run on its deposits. There were strong indications that the liquidity crisis that the Bramer Bank was experiencing had heightened and its collapse was imminent. The risk of a systemic crisis was clear and present. The Bank of Mauritius had no alternative, but to have recourse to Section 17 of the Act which stipulates

that the Central Bank may in cases of urgency and in the public interest revoke a banking licence.

In case the Bank of Mauritius had opted for conservatorship the Bramer Bank would have still been subject to continuing deposit withdrawals. Depositors' interests would certainly not have been safeguarded.

Whereas in the case of the BAI (Insurance), the FSC had reasonable cause to believe that the solvency margin of the insurer is or is likely to be deficient. It thus chose to appoint a Conservator under Section 106 of Insurance Act 2005.

The Conservator has taken charge of the business of the insurer and all of its property, books, records and effects and is exercising all powers necessary to preserve, protect and recover any of the assets of the insurer, collect all monies and debts due to it, assert causes of action belonging to the insurer.

As regards part (c) of the question, following the decision of the Bank of Mauritius to revoke the banking licence of the Bramer Bank, Government took immediate steps to protect the clients and employees of the Bank. Government gave the assurance that deposits of all clients would be safeguarded and took the following actions -

- (i) all Bramer Bank's customers holding a debit card could access their funds through ATMs of the bank as from Saturday 04 April 2015 in the afternoon;
- (ii) a new entity, National Commercial Bank Ltd, has been set up to take over the assets and liabilities of Bramer Bank. Once the formalities of the transfer of assets and liabilities have been completed, the National Commercial Bank Ltd will be in a position to provide full banking services. In the meantime, the receivers have been authorised by the Bank of Mauritius to provide core banking services to the clients of Bramer Bank, with the managerial support of the State Bank of Mauritius Ltd. Thus all the branches of Bramer Bank are open to the public as from this morning, and
- (iii) the BOM will issue a new banking licence to the National Commercial Bank Ltd by the end of this week, and
- (iv) the National Commercial Bank Ltd will start full-scale banking operations at all places of business of the Bramer Bank once the formalities have been completed.

Moreover, the staff of Bramer Bank, except for certain executives, was requested to report for duty as from Monday 06 April 2015.

Concerning, the BAI (Insurance) Government gave the assurance that interest of all recurring premium policyholders would be fully safeguarded and took the following actions -

- (i) a new entity will be set up by Government to take over the 135,283 recurring insurance policies of BAI;
- (ii) all employees of BAI, except the top management, have been requested to report for duty on Monday 06 April 2015.

Moreover, the Conservator has issued a communiqué addressed to clients and employees of BAI dated 06 April 2015 informing them that -

- operations of BAI resume normally as from 06 April 2015;
- all health insurance products are honoured;
- all recurring premium products are maintained;
- all payments due under the above-mentioned policies are executed normally as from 06 April 2015, and
- all Super-Cash-Back Gold policies are not covered by the new entity – we are referring here to the 24,143 investors who invested Rs21.6 billion in this scam.

Madam Speaker, with regard to the image of Mauritius as a financial hub, I have to underline that Mauritius will finally emerge out of this crisis as a stronger, cleaner and more credible financial centre, especially in view of the prompt, effective and determined actions taken by Government and the regulatory bodies.

Madam Speaker, the country was on the verge of a major social crisis on Saturday last. The strong and timely decisions taken by Government and the national solidarity expressed by the Opposition, the media and the nation at large has allowed us to avert a major social and financial crisis. Thank you.

Mr Bérenger: Madam Speaker, the hon. Minister made the difference between some 135,000 ordinary - if I can call them that - insurance policyholders and some 24,000 that went through the notorious - as the Minister said - special scheme and so on. Do I take it that the absolute guarantee that the policyholders' interest will be fully protected by Government and anybody else concern applies to these 135,000 only and what is going to happen to the others?

Mr Lutchmeenaraidoo: Madam Speaker, we have guaranteed the 135,000 and something holders of insurance policies, that is, those who are paying regularly their premium on a monthly basis; all those policies are totally covered. I must here emphasise, I

am not talking of policyholders, but policies. Why? Because out of those 135,000 there are a few of them who have also invested in the Ponzi Scheme and those who have invested in that Ponzi Scheme will not be covered. This is for the 135,000 and something of policyholders. The remainder, that is, the 24,143 investors who believed in this Super-Cash-Back-Gold Policy scam invested a total of Rs21.6 billion, is not covered by the Government guarantee. This instead will be dealt with by the Conservator, PricewaterhouseCoopers, Mr Oosman and Mr Bonieux.

Mr Bérenger: The hon. Minister will allow me to disagree with the Bank of Mauritius, that they used the liquidation process, revoking of the banking licence, instead of going through conservators; and conservators could have stopped the activities of the bank to prevent any further run on the bank, but that is already a thing of the past. Can I know, on a point of clarification - I heard the Minister say that the branches of Bramer Bank, as from this morning, are functioning and so on. Who is functioning? The licence has been revoked; has the revocation been revoked? How are the Bramer Bank's branches functioning?

Mr Lutchmeenaraidoo: That is a great question because, in fact, we spent the full of Sunday afternoon and yesterday trying to find a solution. In fact, there was a transitional measure which was necessary in-between the revocation of the banking licence and the National Commercial Bank moving in. Secondly, we had to give one week of time for Bramer Bank's Board of Directors to react, if any. So, we had a problem until Wednesday this week, that is, tomorrow. So, the Bank of Mauritius very exceptionally, yesterday, issued a temporary banking licence for Bramer Bank which will lapse naturally on Wednesday, once the new banking licence is issued. This is probably the only solution we had. I need to say that we are moving at crisis speed. Maybe, looking back further down the road, we might be wiser, but for the time being I have no doubt that the team at the Bank of Mauritius, FSC, my Ministry - we worked until late last night - came to the only viable legal solution, and that was the transition period of two days.

Mr Bérenger: Madam Speaker, as we know, the law provides that insurance companies cannot invest more than 10% of its assets in its related companies, and I understand that they were way above 50%. The issue was raised in 2013 in the House. Can I know - what has happened has happened - what percentage was the BAI Insurance Company

holding in terms of assets in its related companies? Did it bring it down? Was there a progress? Or were we stuck with figures of over 50%?

Mr Lutchmeenaraidoo: Madam Speaker, I will give the information. As at 31 December 2014, BAI was involved with related parties up to 58%. That is a huge percentage compared to the law that provided for a maximum of 10% of the BAI's assets that could be invested in related parties. So, we are very far. The second question: has the situation improved? Yes, it has improved. In 2009, it reached a peak of 85% ...

(Interruptions)

That's incredible! Shocking! But that's what happened.

It then moved down very gradually to 83%, then pushed up in 2011 to 85%; in 2012, it went down to 84%; in 2013, to 66%, and we are now, today, at around 58% of the total assets of BAI which are invested in related parties instead of 10%. So, we were well before that in a dramatic situation.

Mr Bérenger: The Government has given the total guarantee that the employment of all employees - from what I understood and heard - of the Bramer Bank would be safeguarded. Can I know whether they will be employees of SBM or defunct Bramer Bank or the new Bank that is going to be set up, and what is going to happen to their years of service?

Mr Lutchmeenaraidoo: We are moving in a transition basis. In fact, I must say one thing. The CEO of Bramer, Mr Esmael, has been fully cooperative with Government in this transition period. He is still there. A management team from SBM has also moved in since yesterday. So, as at today, we have the CEO of Bramer Bank who is still there, plus a management team from SBM who are helping and managing the branches.

Mr Bérenger: I understand that a new bank is being set up. Can I know what will be the involvement of the State Bank of Mauritius, which will put in money in the new bank, and which is going to take charge of all the toxic assets that will be found at Bramer Bank?

Mr Lutchmeenaraidoo: There are two questions. First, the State Bank of Mauritius was initially requested to take over the activities of Bramer. But, then, the SBM is also a holding company quoted on the Stock Market of Mauritius, and we can't just play with it. We

realised, therefore, that adding this amount of responsibility on SBM could not be in the interest of the depositors.

So, yesterday, you must have seen that there was a run on the SBM shares, and then it went back, fortunately, to the way it was. But that's just to show how investors are extremely sensitive on such issues. So, we met on Saturday and took the decision with the Bank of Mauritius, SBM, FSC and the Ministry of Finance of creating a new bank, a new entity, which is the National Commercial Bank, and which will be fully owned by Government - 100%.

Mr Bérenger: As far as the BAI Insurance Company and Group are concerned, now that Government has given a total guarantee that the interests of all the 135,000 policyholders will be fully supported, do we have an estimate what the exposure of Government will be? Do we have an estimate to help us in that direction, of the value of accumulated contributions that Government is now taking over in terms of responsibility?

Mr Lutchmeenaraidoo: The hon. Leader of the Opposition will be shocked again. The total long-term insurance liabilities of BAI amount to Rs25.8 billion. Out of these, Rs21.6 billion are represented by the Ponzi Scheme itself. So, we are left with Rs4.2 billion, which represent the total long-term insurance liabilities of the BAI. This is something which we can handle.

Mr Bérenger: Can I know whether we will put in the Budget any sum of money to help face those responsibilities in billions, and what is going to happen to the employment of the employees of the BAI?

Mr Lutchmeenaraidoo: I have not got the hon. Leader of the Opposition's question very well. It's the employees for BAI.

Mr Bérenger: Yes. If the hon. Minister of Finance will allow me; he has guaranteed the employment of all the employees of the Bramer Bank. What is the situation as far as the employees of BAI Insurance and related companies?

Mr Lutchmeenaraidoo: I gave the figures just now in the reply; I will give it once again. For BAI, we have, therefore, 407 full-time employees and their employment is fully guaranteed. There are also 895 insurance agents and sales persons. We have also taken the

responsibility for them too, which amount, therefore, to some 1,302 full-time employees, part-time employees and also sales agents who are working on a commission basis.

As for the policyholders, I have just said that there are 135,283 recurring premium insurance policyholders. I would like to stress again that we are guaranteeing the insurance policies that are being paid regularly by insurance holders, not the holders. Because some of the holders have invested also in the Ponzi Scheme, and we can't guarantee security for that.

Mr Bérenger: The BAI Group had been looking - from what I understand - for a strategic partner. Can I know whether the conservators will be looking eventually for a strategic partner for the BAI group?

Mr Lutchmeenaraidoo: That's a question I can't reply now, because we had to move in fast during the weekend to safeguard the employment of BAI and Bramer. Then, we had to safeguard also the deposits of depositors in Bramer Bank, and then we had to safeguard also those honest insurance policyholders who have been contributing for years in the scheme. So, this was our priority. I feel still very deeply that we had to avert a social crisis. I am not playing on words. If we had not moved that fast, the country would have been in a deep social crisis today. So, that was my priority during the weekend.

Now, with regard to the question of what will happen as from now on, the Conservator - Pricewaterhouse - will have to manage all those assets. We all know that Apollo Hospital is losing money, Iframac is losing money, Courts is losing money. It is quite a situation which will have to be managed, but not by us. We, as Government, intervened to protect the savers, to protect the policyholders, to protect the workers, and we have done it. We have, in the course of this weekend, protected some 220,000 people. We did not want those people to be on the street today. So, they have been safeguarded. Now, I think that Pricewaterhouse will have to manage hereon the situation. It has got its own facilities, it has confirmed therefore quite a few things. Now, will Pricewaterhouse, Mr Bonieux and Mr Oosman decide on finding a strategic partner, it will depend on them. I think that we have moved for the essential now and now I need to take some breath and relax because we have gone through the most difficult part of the crisis itself.

Madam Speaker: Hon. Leader of the Opposition do you have many more questions?

Mr Bérenger: Can I have one? I understand that, although the BAI group was in such trouble in Mauritius, they have managed to invest in Kenya and that the value of their

investment, especially in Equity Bank and Housing Finance Corporation of Kenya, is to the value of some Rs6 billion. Has this been looked into, what is going to happen? Will that be available, here, in Mauritius to help in the local situation?

Mr Lutchmeenaraidoo: In the night of Friday to Saturday last, in-between 1 a.m. to 5 a.m., negotiations went through and something incredible happened, Mr Dawood Rawat signed and sold the whole group for Rs1; he must know what he was doing. But we have a document signed by him, whereby he was relinquishing all the rights of the whole group. I am speaking of some 500 companies! Ponzi Schemes are always very complex to explain. We are dealing now with subsidiaries companies, hidden companies, indirect companies and we are expecting now that this commitment of Mr Rawat will materialise in a formal document on which his lawyers are working, here, in Mauritius. So, my first reaction was one of pleasant surprise, but I also feel that if he moved that quickly to relinquish all his rights then it might be fishy also.

Madam Speaker: We are running out of time. I will allow one question for hon. Shakeel Mohamed and then I will come back to the hon. Leader of the Opposition for his last question.

Mr Mohamed: Thank you, Madam Speaker. The hon. Minister has been talking about scam and Ponzi Scheme. Does he have any report from any institution that has enquired into all the aspects of this case, as being expatiated upon by himself, be it the Financial Intelligence Unit, the Bank of Mauritius, the Financial Services Commission, the Police or be it any institution or any private institution, that confirms what the hon. Minister is saying, Madam Speaker, that, indeed, there is a scam or indeed there is a Ponzi Scheme? Because we have heard outside independent lawyers, who have no interest of their own to protect, have come out very independantly, have said there is no Ponzi Scheme, there is no scam!

Madam Speaker: Hon. Mohamed, you made your point! We are running out of time.

Mr Mohamed: So, on what therefore does the hon. Minister base himself to say that? If he bases himself on something substantial, can he now come up with it and deposit it on the Table of the Assembly?

Mr Lutchmeenaaraidoo: I won't be surprised that the hon. Member, himself, knows since quite a long time that BAI is a Ponzi Scheme! Therefore, let's not play on words.

(Interruptions)

The Leader of the Opposition knows very well, we've been working. In fact, I must confess ...

(Interruptions)

Madam Speaker: Hon. Mohamed!

(Interruptions)

Madam Speaker: Hon. Mohamed, please allow the hon. Minister to reply! You have asked your question, you have made your point!

Mr Lutchmeenaaraidoo: No, I don't want to hurt any feeling here. I can just tell you that we all know that this is a Ponzi Scheme, a scam that has been set up to steal poor people savings.

(Interruptions)

Let us not play on words! And if the Government had not moved fast this weekend, we would have had a social crisis of unlimited dimension in this country and the House knows also. You know why ...

(Interruptions)

Madam Speaker: Hon. Mohamed, please!

Mr Lutchmeenaaraidoo: ...the Leader of the Opposition is adopting a very serious approach because we have been working on this file since 2010. We know each of us that the scam – this one - has been copied and pasted from Trinidad; that BAI Trinidad collapsed in 2009 and the then Prime Minister of Trinidad, Kamla Persad, went to Parliament and said and confessed that 'BAI is a Ponzi Scheme'. The chance we had here is that Trinidad & Tobago, the Caribbean islands, are still fighting even now to refund insurers policy of their money ...

(Interruptions)

Madam Speaker: Hon. Mohamed, please!

(Interruptions)

Hon. Mohamed, you have made your point! No cross-talking!

Mr Lutchmeenaraidoo: Madam Speaker, I will come to the hon. Member in one second ...

(Interruptions)

I wish to tell the hon. Member ...

(Interruptions)

Madam Speaker: Hon. Mohamed, please don't get excited!

(Interruptions)

Last question, hon. Leader of the Opposition!

Mr Bérenger: I have a last question. I know it is early, but has the Ministry of Finance started looking at what impact this whole mess will have on GDP growth? I know it is not an easy question, but is the beginning of an answer available and, if not, will the hon. Minister keep us informed as we go along, as the drama develops, what impact this whole mess will have on GDP growth?

Mr Lutchmeenaraidoo: Just as a matter which concerns the whole House, I need to say that predators, vulchers don't have religion, don't have race, don't have colour. They are there to steal poor people's money, that's all. Let us not give to predators, to vulchers a community, a name or a religion because this is not true. I wanted to make this very clear because I don't want anyone in this country, even for one second, to doubt that we are dealing with a Ponzi Scheme of incredible proportion, planned, master minded to steal people's money. But, there is nothing on this issue that can concern a religion, a community or a race, that is number one.

The Leader of the Opposition has put the question. I can tell you that I will keep the nation informed and the Leader of the Opposition and the media also. I will keep you all informed on a day to day basis of what we are doing to save the situation. What I can say is that we have come out of the most substantial part of the crisis and this is something which is

great for the country, for the nation. So, the Government will certainly keep the public, the nation, the Opposition, the media fully informed about the evolution of the situation.

Madam Speaker: Time is over! Hon. Members, the Table has been advised that Parliamentary Question Nos. B/254 and B/261 have been withdrawn. Parliamentary Question No. B/263 addressed to the Rt. hon. Prime Minister will now be replied by the hon. Minister of Agro Industry and Food Security!