

**COMMISSION OF INQUIRY OF THE PUBLIC INVESTMENT CORPORATION**

**HELD AT**

**TSHWANE, PRETORIA**

10

**26 MARCH 2019**

**DAY 20**

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**PROCEEDINGS HELD ON 26 MARCH 2019**

**CHAIRPERSON:** Morning.

**ADV JANNIE LUBBE SC:** Good morning Mr Commissioner, members. Mr Commissioner we are ready to start and luckily this morning we don't have the logistical problems of yesterday and we will try and make up time. We have a busy schedule for this morning, we plan to bring five witnesses to the Commission today, injury time and extra time permitting but we're ready to start and my colleague Adv Khooe is ready to start with Mr Rajdhar.

**CHAIRPERSON:** Yes thank you. Yes Ms Khooe?

- 10 **ADV NKAISENG KHOOE:** Good morning Commissioner, members. Mr Rajdhar is ready to proceed with MST. May I please sit?

**CHAIRPERSON:** Yes you may sit.

**ADV NKAISENG KHOOE:** Thank you.

**CHAIRPERSON:** Mr Rajdhar I think it's a new day so let's take the oath afresh. Do you swear the evidence you're about to give will be the truth, the whole truth, nothing but the truth, so help me God?

**MR ROYITH RAJDHAR:** So help me God.

**CHAIRPERSON:** Thank you very much.

- 20 **MR ROYITH RAJDHAR:** Good morning. Commissioner before I start with the MST transaction I just thought if you would allow me to make a correction to one of the answers I had given to Ms Marcus on one of her questions yesterday on S & S Refinery if I may? Ms Marcus asked me whether on the Ecobank whether the loan or the LC was being serviced and I answered yes, I'd just like to correct that, it was serviced on the first tranche, the second tranche as I understand has been partially serviced but not fully settled so I just wanted to clarify that.

**MR EMMANUEL LEDIGA:** Morning, morning Mr Rajdhar ja just to follow up on the S & S issue the one question which I was not clear about was on the equity contribution of the company. You mentioned that there was \$22 million which Mr Rassul contributed and you said the \$18 million was for the PIC meaning did you mean that there was a total of 40 million of equity or did you mean that 28 million that the PIC used was used to pay out the man you know Mr Rassul, if you can clarify that because it's one thing which I'm still not sure there.

**MR ROYITH RAJDHAR:** Okay the issued share capital of the company would be \$40 million. Subsequent to that there would have been another – the \$40 million would  
10 have been an equity subscription. Then subsequent to that when there was an additional \$10 million that was just a purchase and sale between the shareholders so it did not alter the share capital of the company, the share capital of the company still remains \$40 million.

**MR EMMANUEL LEDIGA:** I see so in terms of the total project cost there was that 22 which was in the balance sheet it was never touched, he contributed that, and then there was the 18 million that the PIC contributed which was part of the project costs it was not touched. The only money that he got was the 10 million which came to buy the 25% stake?

**MR ROYITH RAJDHAR:** Okay yes that would have been the purchase of shares but  
20 right at the outset as I mentioned Mr Rassul had funded the projects through shareholder loans so when PIC came in it had come into the company, would have paid some of that loans and the balance converted into share capital. But in the end analysis of it, of the first sequence of the transactions it would have been a \$40 million share capital and that would have remained even up till today and the 10 million is just a purchase direct between Mr Rassul and PIC.

**MR EMMANUEL LEDIGA:** And the PIC, okay alright.

**ADV NKAISENG KHOOE:** Mr Rajdhar am I correct that the overview of the impact investing division and roles and responsibility remains the same as you outlined yesterday?

**MR ROYITH RAJDHAR:** That is true except for the part of where I was senior fund principal, I'm not Executive Head of Impact Investing but in terms of roles and responsibilities and structure of the division it remains the same.

**ADV NKAISENG KHOOE:** In that case I'm going to ask you to start at paragraph 7 of your statement.

10 **MR ROYITH RAJDHAR:** Okay so if I start at paragraph 7 which deals with the origination of the MST transaction, sometime in June 2015 PIC's Chief Financial Officer Ms Matshepo More mentioned to me that someone had enquired about whether we could consider providing funding for mobile busses to be used for inter alia health and education purposes. I indicated that on the face of it the nature of the project falls within the investment mandate however we would require additional information. She indicated she would refer them to the impact investing team then called developmental investments and we should see whether it is viable or not.

**MS GILL MARCUS:** Sorry Mr Rajdhar just on that did you subsequently find out who that person was who had approached them?

20 **MR ROYITH RAJDHAR:** Yes it was the client, Mr Watkins.

**MS GILL MARCUS:** Mr Watkins, thank you.

**MR ROYITH RAJDHAR:** On Thursday the 2<sup>nd</sup> July 2015 the CFO forwarded documentation which Mobile Specialised Technology which I'll refer to as MST sent to her, on 6<sup>th</sup> July 2015 I forwarded the same e-mail to Ms Seipati Moichela an associate principal in the social infrastructure team of the impact investing division.

**MR EMMANUEL LEDIGA:** Just to check something there quickly is that when you get a transaction how do you decide where it goes I mean whether it's private equity or your division and the other divisions?

**MR ROYITH RAJDHAR:** Okay through you Commissioner, what would happen if a transaction came through to me I would understand what the criteria is for private equity as well as for other divisions within PIC. If it falls within those divisions I would send that through to the head of that division. Now in this particular case when the transaction was described to me I had already known that it fits within my division hence I requested Ms More to send through the proposal through to me. When it comes to me within my team I would have different fund principals, I'll have one that would cover energy, one that would cover social infrastructure that is education, health and affordable housing, I would have one that covers SME's, one that covers what we refer to as priority sector but that covers a broad range of sectors that where there's high job creation so and then I'll have a person who'll deal with economic infrastructure. So when the proposal comes to me I'll look at the nature of it and I'll forward it to the appropriate person.

**MR EMMANUEL LEDIGA:** So meaning that, okay the main question is that what is the difference between your division say and private equity and SIP's I mean what would be the key differences there?

20 **MR ROYITH RAJDHAR:** Okay the key difference, and here I'm dealing with predominantly what the difference is, is on private equity it will tend to be your BEE type transactions where there's transfer of ownership from one to another. So it has, although it could have impact on the company it does not have impact on the company's balance sheet it is just a share transaction between two shareholders. Of course you could get situations where there is a BEE transaction with a subscription of

shares where money flows into the company there's a fresh issue of shares and the proceeds flow into the company. On my side, on the impact investing side we're dealing here predominantly with a situation where you are investing in start-ups or in expansions. Now how we have tried to distinguish between whether it goes into private equity or impact investing is that we say if the majority of the capital required goes into the company to enhance the productive capacity of that company that would fall on the impact investing side. If the majority of the funds flows into the hands of another shareholder that would fall in the private equity side so that would be the distinction.

**MR EMMANUEL LEDIGA:** Ja that's clear, thanks.

- 10 **MR ROYITH RAJDHAR:** Okay through you Commissioner if I can proceed to the overview of MST which is paragraph 9. MST manufactures and kits busses from corporate social responsibility funds or from government departments and public entities to be used to offer social benefit to society. MST offers a complete service solution incorporating vehicle custom design manufacturing, operations and maintenance including the staffing of the mobile school healthcare and educational bus units. MST has evolved over time while continually refining its solutions to offer a one stop shop for all its clients' mobile needs. As a result MST Group established specialised subsidiaries or divisions to focus on core functions to ensure that comprehensive solutions are on offer.
- 20 MST mobile healthcare and MST education busses are used to provide healthcare services and education services to children at school. MST provides preventative healthcare which allows for early detection and correction of simple health problems before they become disabling matters. The mobile health busses are fully customised and consists of primary healthcare consultation room an optometry room and a dental consultation room. Education busses provide children with exposure to technology and

offer career guidance to spearhead the learners growth path.

**MS GILL MARCUS:** Sorry Mr Rajdhar on paragraphs 9 and 10 as you've outlined what MST does is that knowledge you have of what they do from your due diligence or is it what they say they do?

**MR ROYITH RAJDHAR:** That is knowledge from what we know they do during due diligence. Of course we have also established during due diligence they do other things as well such as on the HIV testing as well as registration of contractors or small contractors with NHBRC for CIDB grading as well.

**MS GILL MARCUS:** And in that, in your due diligence how many busses did they  
10 actually have in operation doing all of this given that the request was for building more busses so one would assume if they need to build more busses they've got some in operation given what you've said, just to get an idea of the scale of what is the current, at this point in time, what was the current functioning and what was the add-on that was required from the PIC?

**MR ROYITH RAJDHAR:** Through you Commissioner, I think it's somewhere around 25 if I'm not mistaken, we can get the exact numbers, and then the funding for the PIC was for an additional seven busses.

**MS GILL MARCUS:** I think let's get the exact number that were operation at this point  
20 in time so that one could, 'cause it's a national operation it's not a, although it's based in Western Cape it's a national operation so we know how many that is and when you do come to that point please just indicate why the initial request and the documentation was for 14 busses but the actual approval was for seven, how did it go from 14 to seven and then obviously we would want to know how many actually were made?

**MR ROYITH RAJDHAR:** Okay.

**CHAIRPERSON:** I'm tempted to ask where this happening, is it only in the Western

Cape?

**MR ROYITH RAJDHAR:** Through you Commissioner ... (intervention)

**CHAIRPERSON:** Because I wish I could see some in the Eastern Cape.

**MR ROYITH RAJDHAR:** Chair I understand it's beyond the Eastern Cape I think it's also in Mpumalanga but I think a lot of the detail I'm sure Ms Constance will come in we'll actually then provide in terms of the number of busses as well as explaining the 14 and the seven as well.

**MR EMMANUEL LEDIGA:** Let's ja, I just want to check their business, do they manufacture the busses and then hand them over to some people to operate them or  
10 they manufacture and they operate those services you know?

**MR ROYITH RAJDHAR:** Through you Commissioner, both so it's one where you would manufacture and you would sell it off completely, the other one would be you manufacture and you'll operate it as well so it's the both services.

Commissioner if I can move to paragraph 11? In June 2015 MST had applied for a loan of 45 million. Following discussions between PIC's investment team and MST a scoping report was tabled on 16 July for consideration to the Portfolio Management Committee. The Portfolio Management Committee approved for the transaction to proceed to due diligence. Upon completion of the due diligence the investment team presented the investment to PMC on 23<sup>rd</sup> November 2015 where PMC approved a term  
20 loan of 30 million plus 25% equity at a nominal amount of R25,00.

**MR EMMANUEL LEDIGA:** Ja on, just to check on paragraph 9 you mentioned that they used to operate by getting money from SCI funds, Government funds so were they trying to be a profit making company or were they non-profit before?

**MR ROYITH RAJDHAR:** Through you Commissioner, it has always been a profit making company. When the investment team informed MST of the conditions of

approval by PMC MST was not willing to offer equity to PIC unless it was offered based on a company value of R103 million. This amount is to the best of my recollection but I remember it being R103 million. When the investment team mentioned this value to me I refused because it meant PIC must pay for the value created as a result of funds provided by the PIC. So there's an established principal in PIC that where we're putting in money into a company and because valuations are based on a forward looking picture if we're putting in the money and that is creating the profits we cannot base a value on that, the value must be based on excluding our funds and hence I had refused for the transaction to be done on the basis of R103 million valuation.

- 10 At a point in time I was travelling to Cape Town and the client became aware of my travel arrangements and requested a meeting with me whilst I was in Cape Town. Prior to my return to Johannesburg I met with the client at Cape Town International Airport, this was the first time I had ever met any representative from MST and that's largely because I do not get involved in the due diligence process.

**ADV NKAISENG KHOOE:** Sorry do you know why the client contacted you specifically and why didn't they contact the team rather?

- MR ROYITH RAJDHAR:** I would imagine that that, because it dealt with an issue of the critical part of the terms of the funding they would have thought that I would probably be in a more senior position to maybe make a determination as to whether I'd  
20 be able to agree to another structure and I'm sure maybe the team had mentioned to them that it was I who had refused the valuation of the R103 million.

So at the meeting I explained to the client that, because the client didn't want to give us shareholding unless we paid at market price so I explained to the client that PIC receives a mandate from its clients. The mandate stipulates the return expectations and therefore a conventional term loan would not enable PIC to achieve its return. The

client agreed that we could explore alternative structures so as to meet mandate requirements. On 8<sup>th</sup> June 2016 the PMC granted approval for a revised proposal comprising a debt facility of R21 million bearing commercial rates plus a 5% profit share. I'd just like to add at this point in time you'll notice the amount had come down from 30 million to 21 million and that was at the client's request because in the meantime the client had also been approaching Mercedes Benz for finance. Following the approval legal agreements were signed and after a fulfilment of the suspensive conditions funds were disbursed on 6 July 2017 into the bank account of MST.

10 With regards to my involvement in the MST deal, with regards to this particular transaction I had no direct involvement in the transaction other than ascertaining the nature of the transaction it did indeed fit the PIC mandate. Upon receipt of e-mail an attachment sent to me on, if I can correct that it's 2<sup>nd</sup> July 2015, by Ms Matshepo More I had forwarded the same e-mail two business days later to Ms Seipati Moichela an associate principal in the impact investing division. From this point onwards the investment team ran with the project and at each point in the investment process where submissions need to be made to the relevant PIC committees I would review the document compiled by the investment team and sign these for submission.

The conditions precedent is stated in page 81 of the term sheet ... (intervention)

**MR EMMANUEL LEDIGA:** Question, do you know how Ms More got in contact with  
20 MST the company, the initial contacts and all that?

**MR ROYITH RAJDHAR:** No I don't all I know is that she had told me that she had met some people who were looking at funding for this kind of initiative and she had described it to me and based on the description I felt it met the mandate and all I said is get them to send through the proposal to me.

The conditions precedent is stated on page 81 of the term loan facility agreement

concluded between MST and PIC and this was done on behalf of the Unemployment Insurance Fund. The following are a paraphrasing of the conditions precedent; providing certified founding documents, providing certified copy of shareholders register, providing relevant corporate authorisation and approvals to give effect to the loan including provision of specimen signatures, confirmation of borrowing authority absence of defaults and various representations and warranties.

All other related agreements are correct, complete and accurate and in full force and effect and there is full compliance with financial governance. No material adverse change has occurred financial or otherwise. Various documents evidencing pledge  
10 session, guarantees and subordination of debts in favour of PIC were to be duly executed and become unconditional and in full force and effect. Certified copy of the later annual financial statements, certified copy of the consolidated annual budget, provision of a legal opinion regarding incorporation capacity and due authorisation by the borrower, lending approvals must have become unconditional, auditors confirming liabilities, shareholder loans percentages and trading history, the provision of a five year business plan and providing tax clearance certificates.

These conditions were fulfilled ... (intervention)

**ADV NKAISENG KHOOE:** Sorry can I ask you, did MST provide audited financial statements certified?

20 **MR ROYITH RAJDHAR:** Through you Commissioner, yes MST had provided audited financial statements as at 30<sup>th</sup> June 2015 but I will come later to why I feel that perhaps prior to disbursement we should have had 30<sup>th</sup> June 2016.

These conditions were fulfilled prior to disbursement taking place. It is worth pointing out the following the special notarial bond is incapable of being registered until the busses have been constructed as specific identifiable information about the assets

must be in place before a special notarial bond is registered. Technically the provision of 30<sup>th</sup> June 2015 audited financial statements would discharge the condition of providing annual financial statements. However in retrospect PIC should have demanded the provision of 30<sup>th</sup> June 2016 audited financial statements prior to disbursement. I'd like to mention at this point that what the team had done in the absence of there because those financial statements as at 30<sup>th</sup> June 2016 was not in place the team had obtained the management accounts and interrogated the numbers to test for their integrity but there was not audited financial statements at 30<sup>th</sup> June 2016.

- 10 **MS GILL MARCUS**: Have those financial statements subsequently been provided and obviously in the subsequent years been provided to PIC?

**MR ROYITH RAJDHAR**: Through you Commissioner, that has been a problem in obtaining these financial statements, they did however send through some financial statements for 2017 in January of this year. However, we have to point out that whilst it may meet the requirements of the Companies Act in terms of in the Companies Act there's provisions depending on the public interest score you could have financial statements that are independently reviewed you could have financial statements that are audited. What seemingly is provided is what is independently reviewed, whilst it might meet with the requirements of the Companies Act it does not meet the  
20 requirements of the PIC legal agreements which is to provide audited financial statement regardless of what your public interest score is.

**MR EMMANUEL LEDIGA**: Ja just a couple of questions on this company, you were giving them a loan of 21 million, two questions, was this the normal size of a typical transaction within your division and in terms of growth I mean was this company sort of promising quite some growth?

**MR ROYITH RAJDHAR:** Through you Commissioner, in terms of size we would typically do transactions above R50 million but what we do is that we haven't had it cast in stone usually sometimes when we do go to the committees the committees implore on us to, where we find transactions that have good social impact, we should look at transactions of smaller amounts but in my division I think the smallest transaction we had ever done was a transaction for R5 million I think this would have been the next, no then there was one for 20 million and I think this is the third smallest transaction we had done in the unit. Mr Lediga if you can just repeat your second question?

**MR EMMANUEL LEDIGA:** Just in terms of growth of this business I mean was that  
10 quite promising or what?

**MR ROYITH RAJDHAR:** Look I think on our side we looked at it from the point of view if we take how BBBEE has evolved over time and if we look at the compliance with it and that you'd find that you can see clearly there's more and more commitment to BBBEE so I think in terms of how much of monies was going to flow from whether it was CSI budgets or enterprise development budgets we saw that as growth. But I think importantly here what we looked at was the benefit that this was offering to particularly youth in the country which was a strong reason why even later we even considered providing funding from our corporate side, not from client funds in terms of the CSI because we thought it was doing good to society.

**MR EMMANUEL LEDIGA:** And besides the money you put in this company what is  
20 your typical cheque size, what is your typical cheque size, average cheque size?

**MR ROYITH RAJDHAR:** That would be difficult for me but we can provide that information, we can look at the transactions and we'll give you maybe the average and we'll give it to you in buckets, we can provide that to the Commission.

**MR EMMANUEL LEDIGA:** Yes please.

**ADV NKAISENG KHOOE:** Sorry, Mr Rajdhar, I just wanted to find out: Was the forecasted financials a realistic forecast of the projected revenue growth? And can you also provide us with same if they were?

**MR ROYITH RAJDHAR:** Through you, Commissioner. At the time we thought it's realistic. Well, the – what has since happened, well, the client is making allegations that as a result of all the negative publicity surrounded the MST transactions that the PIC is the responsible party for the decline in the revenues, which we refute. But we will provide the historical financial statements.

“The present status of the investment:...”

10 As a commission you may be aware this investment has received widespread adverse media coverage over the past 18 months. I think you'd see a lot of the stories relating to the CEO and the girlfriend story, but I think that was the publicity that was out there.

“MST is in default in terms...”

**CHAIRPERSON:** Can I...? Ja. Ja. Just to be clear, so the girlfriend story is about the 5-million which was in the CSI fund and this 21-million is a separate matter because this is the company? Is that correct?

**MR ROYITH RAJDHAR:** Factually speaking, the involvement of Ms Pretty Louw was under 5-million, but if you take media coverage, media coverage focused mainly on the 21-million. That's... That was what's in the media. So if you look at media articles, it's  
20 talking about the 21-million rather than the 5-million but, factually speaking, the 5 – the story should have been on 5-million, not on the 21.

**CHAIRPERSON:** Okay. Did Ms Louw participate in the raising of the capital on the 21-million?

**MR ROYITH RAJDHAR:** Through you, Commissioner. May I proceed, Commissioner?  
Through you, Commissioner. The... No. In fact, when the R21-million transaction was

done we didn't even know of the existence of a Ms Pretty Louw. That, only we had met with her, I think it was in – somewhere around in October 2017, if I'm not mistaken.

**CHAIRPERSON:** So no one got transaction fees in this one?

**MR ROYITH RAJDHAR:** Not to my knowledge, Commissioner. Maybe the amount was too small.

**CHAIRPERSON:** I'm still interested in this thing. MST, is it only operational in the Western Cape? Or is it a national initiative?

**MR ROYITH RAJDHAR:** It's not national but it is in a few provinces. It's not, I mean, not in the Western Cape but it is in a few provinces that the vehicle travels.

10 **CHAIRPERSON:** Ja, I'm just worried about... I see you say it gets its funding from CSR funds or from government.

**MR ROYITH RAJDHAR:** Mostly of it.

**CHAIRPERSON:** That's why I'm asking.

**MR ROYITH RAJDHAR:** Chair, from my understanding, most of it is from government or CSI or public entities. Those would be the target market. So even if you take, like, for example NHBRC is a public entity, it's related to government, so that's where the focus is, but I think my colleague, when she presents, I think can give you more information on that.

**CHAIRPERSON:** I just don't want my province discriminated against.

20 **MR ROYITH RAJDHAR:** Sorry, Commissioner. Maybe the roads needs to be fixed first. Commissioner, I think I'm on paragraph 24.

“MST is in default in terms of its financial obligations for servicing of the loan. The defence is that the adverse media coverage has done immense damage to its reputation and consequently it is finding difficulty securing additional business. On 8 May 2018

MST wrote to PIC accusing PIC of being complicit by its silence to the media allegations of wrongdoing on its part and this negative publicity was affecting the finances of the company and causing delay in the issuance of its annual financial statements by its auditors. This is based on articles carried by City Press in September 2017 and in May 2018.”

I would just like to also mention that the – Commissioner, that the client is saying hence it had changed its name from MST to, I forget the name of the – what’s its – it’s recent name. But if we look at the issue with regards to the annual financial statements, Commissioner, is that I don’t think that what is said is true, it’s because of us. I know  
10 that the auditors are reluctant to sign off because of the coverage in the media, but some of the – part of that financial statements was before these stories came out in the media so there can be no excuse for non-issuance, for example, of 30<sup>th</sup> June 2016 financial statements.

“MST has applied to PIC to restructure its facility. The proposal was tabled to PMC Unlisted Investments but was rejected primarily because the PIC has experienced great difficulty in obtaining audited financial statements for the years 30<sup>th</sup> June 2016 to 30<sup>th</sup> June 2018. However, more importantly, there is a lack of  
20 cooperation by MST in providing information on the buses to enable the registration of special material bond. In addition, there is preliminary evidence which would suggest that PIC funds were not wholly and exclusively used for the construction of new buses.”

I think a lot of that detail would come out in the – from the past investment team’s

testimony.

“PMC Unlisted Investment has approved that the restructure proposal not be considered and MST must be issued with a letter – with a default letter and in the event that the default is not remedied within the agreed period PIC should exercise its rights in terms of the agreements concluded.”

I would just like to mention that on this particular case we have issued that letter, it has not been remedied and a demand has been made for the acceleration of the entire loan amount that the lawyers have issued. Chair, in conclusion I would just like to say, I  
10 mean, this year we see it as a sad state, given that this project, if we look at what it's intended to do, I think it's a very good project that can improve and touch the lives of many South Africans, particularly youth, and that's the sad thing about where we are today. Thank you, Chair.

**MS GILL MARCUS:** Mr Rajdhar, can I ask a couple of questions? Because I think that... And obviously it will be also covered in the next witness, but your preliminary evidence to suggest that the PIC funds were not wholly and exclusively used for the construction of new buses, from the documentation that I've read it looks like there were no buses manufactured at all and that there were different reasons given including re-kitting of some buses but the chassis numbers couldn't be traced, and then different  
20 arguments as to why it was required. The first would be to – I mean, as you indicated, they got a loan from – or funding from Mercedes and then the argument given is that funding would be to enable MST to explore other chassis suppliers without being limited to Mercedes Benz. So you borrow money from Mercedes and then are bound by their chassis so you borrow money from the PIC in order to not be bound. It just does not make sense in terms of the approvals. And then, in the minutes of the meeting of the

PMC Unlisted, which was in July 2015, it says the reason was to meet its order book. So the loan was given to meet its order book in one set of documents and then in another set of documents it was to enable it to explore other chassis suppliers and in the end there's no bus built. So what happened to the 21-million altogether? And then, in your Annexure D, is this normal, for the PIC to precondition loans?

“The committee emphasised that MST should improve its BEE level through incorporating a female BEE group in the shareholding and a female at operational level.”

10 Would that be standard procedure, that you would say to get our loan this is what you need to do and therefore fundamentally alter the composition, nature, accountability, competencies of a company? I'm not disagreeing with the question of empowerment, but I think that if I was running a company and I had a determination that this would alter my functioning and my competencies as to have a precondition met of this nature, how do you take accountability? How do you make the entity accountable if you're imposing those kind of conditions? And is it standard to impose them?

**MR ROYITH RAJDHAR:** Through you, Commissioner. I think, Ms Marcus, the question with regards to the application of the funding, I agree that it's... When we look at what is in the appraisal document, or the approval, what is carried forward into the legal agreements state 'new buses', and I think that has become the source of  
20 disagreement between the client and ourselves because the client, it would seem, based on if we review the documents, that the team would have spoken to them about not only new buses, but when it came to the agreements the agreements are concluded on the basis of strictly new buses, and so we – and so the – on the legal side that's what they are sticking to, is that you've signed that it will be new buses but the client is contending that was not the discussions, notwithstanding that they had signed on new

buses, and that's the – where we – there's a big disagreement on, you know. So I think ... (intervention)

**MS GILL MARCUS:** But surely, as yourselves, you've agreed to it on the basis of the legal documentation.

**MR ROYITH RAJDHAR:** Yes, we agreed on the basis ... (intervention)

**MS GILL MARCUS:** Which is new buses.

**MR ROYITH RAJDHAR:** So we are pursuing on the basis of the legal agreement, so that is what was signed and I think it's fair to say that if you're signing the legal agreements you have viewed it, you've contributed, it was not a quick process. So you  
10 should – you would have applied your mind to it. So we are sticking on the basis that it's on new buses. And I think that, I speak under correction, I think the team was only able to verify one. They had provided eight. They sent the team around in circles, many times travelling. I know they had even travelled into Mpumalanga to even look at buses. But the client, in the initial stages, was so convincing that at some point I even doubted my own team, but as you go on you can see that there is not a willingness to open up and, you know, be transparent. Because it's a case of we can always look at how we can come to an amicable arrangement, but right now it's very difficult to get  
20 information from them and hence we've taken the decision to call up the loan and exercise our rights and we've rejected their three proposals that they made to us because the three proposals made to us is to inject more capital into the business and we're not prepared to inject more capital into the business.

**MS GILL MARCUS:** Can I take you to the UIF mandate document?

**MR ROYITH RAJDHAR:** Yes.

**MS GILL MARCUS:** Of July 2015? And there you've got a shareholding for MST which relates to paragraph 3. Can you just tell us a little bit about that shareholding and

when you had conditions precedent, you said, that – or it had to provide that the tax affairs were in order? Would that be as MST or also as the individual shareholders? And how would you assess the question of the shareholding in that sense? I mean, is this what you would have examined, both 3? Because 3 relates the names of the organisations or trusts and I'm assuming the 3 in the paragraph gives the names relating to it. Can you just talk to that a little bit?

**ADV NKAISENG KHOOE:** Sorry, Commissioner. Can you just tell him which annexure you're looking at?

**MS GILL MARCUS:** That's a very good question because I had it as a separate sheet  
10 and I'm not sure it came in the annexures, but it is the 16<sup>th</sup> of July social infrastructure 2015 UIF mandate and it gives a synopsis of the salient features of the project. It doesn't come under a tab. It came separately.

**MR ROYITH RAJDHAR:** Alright, Chair. Through you, Commissioner. I think I would remember there was a – we painted the picture of the shareholdings.

**MS GILL MARCUS:** Yes.

**MR ROYITH RAJDHAR:** Which have been – would have been through companies and trusts. So there where we had examined the shareholding about 60% of the shareholding was related to the main sponsor there, Mr Fernando Acrafrao and his family and then the two other, I think, shareholders, one of which is Mr Reggie Kukama  
20 and Mr Jonathan Beare, through their companies, own the shareholding as well. That was examined at the time of the due diligence.

**MS GILL MARCUS:** And would the shareholders have been informed of the state of affairs of MST as we have it now?

**MR ROYITH RAJDHAR:** I cannot confirm that now, but we can confirm post the meeting. I'm not aware of that.

**MS GILL MARCUS:** I would think that's quite important because, I mean, it's... Again, I'm not – I don't – I'm not able to see who is who in relation to the companies.

**MR ROYITH RAJDHAR:** Yes.

**MS GILL MARCUS:** But you've got Yaetsho Investments which is 20%, Kumari Family Trust 10%, Rapid Relief Trading 5%, FA Children's Trust, which I'm assuming is Fernando Acrafrao 60%

**MR ROYITH RAJDHAR:** H'm. H'm.

**MS GILL MARCUS:** And Buffshell (?) 57 Trust 5%.

**MR ROYITH RAJDHAR:** Yes.

10 **MS GILL MARCUS:** So I'm assuming that the people relate to that.

**MR ROYITH RAJDHAR:** Yes.

**MS GILL MARCUS:** And I would want to know that all of the tax matters related to the individuals as well as MST and those companies are also in order.

**MR ROYITH RAJDHAR:** We'll confirm that. But what I can say is that at least at company level we would have checked the tax affairs of the company, but I will confirm whether that was extended to shareholders as well. And ... (intervention)

**MS GILL MARCUS:** And whether those shareholders are all informed and are fully aware of the state of affairs of MST as it stands today.

**MR ROYITH RAJDHAR:** Yes.

20 **MS GILL MARCUS:** The question of inability to get audited financial statements and the prospects of its business continuing in a profitable manner going forward.

**MR ROYITH RAJDHAR:** We will do that, Commissioner. Then the question related to – on the imposition of certain requirements insofar as introducing female at shareholding level and so forth, what would normally happen, if I can explain to the committee, is that you will have the deal team which will do the due diligence on the

commercial side and the risk, then you have an ESG team, legal team and risk team. So the ESG team, independently of that, would come up with their own recommendations and they would put in recommendations in terms of trying to improve, as an example, the triple BEE status of the company. Normally that won't be a condition precedent, but it will be an undertaking and usually they would give them between 18 months and 24 months within which to achieve that. So that is the – what the ESG recommendations that are tabled at the approval committee and if the committee approves of that that would become the condition. I do take Ms Marcus' point in terms of imposition of certain requirements, could end up – well, you could put  
10 yourself on the back foot because if things go wrong they'll probably say it's because of you, and I take that point.

**MS GILL MARCUS:** In that circumstance, as you've made the recommendation, as indicated in 10.9, 'emphasise the MST should improve its BEE level through incorporating a female BEE group in the shareholding and a female at operational level', in those circumstances does the PIC ever make recommendations of names? Or does it leave it to the entities?

**MR ROYITH RAJDHAR:** Through you, Commissioner. We won't make recommendation of names, we would leave it to the entity, but on occasions it might be subject to us agreeing to who those people or individuals are, but we would never make  
20 that recommendation.

**MR EMMANUEL LEDIGA:** Does the PIC have someone on the board of the company?

**MR ROYITH RAJDHAR:** In this particular instance because it's a loan it doesn't give us the right to appoint a board member.

**MR EMMANUEL LEDIGA:** Yes.

**MR ROYITH RAJDHAR:** But if we were in shareholding we would probably have the right to appoint usually one or two people.

**MR EMMANUEL LEDIGA:** H'm. My worry is that it seems that there are times when the PIC struggles to get the financials, you know, of companies. It was the Mozambique company, which is a bit different because it's like it's a different company in many ways but we still need those. But here, too, you are battling to find the financials. What causes that? I mean, what...? I mean, companies must do financials, I mean, you know, and why can't they do them and send them to the PIC?

**MR ROYITH RAJDHAR:** Look, through you, Commissioner, in this particular instance...

10 Look, firstly I believe that for 30<sup>th</sup> of June 2016 the company has no reason not to have provided that. I could understand that maybe with all the negative publicity that surrounded the investment that the auditors probably are very cautious and taking the view that they don't want to sign. I am inclined to believe that that might be the case, but definitely not for June 2016. What has been provided to us now is a watered down version of an audit because the Companies Act allows for it, but our agreements is very specific. We want audited financial statements that is applicable to the normal companies that are audited, and that is not – has not been forthcoming. The... I think the client is doing this to pacify us in the meantime of giving us a watered down version of financial statements. We need a higher degree of assurance in terms of a full audit.

20 **MR EMMANUEL LEDIGA:** And given what has come to pass, you know, what has gone down with this investment, is there something that you think you could have done better in terms of the investment process on this company?

**MR ROYITH RAJDHAR:** Through you, Commissioner. I think... Look, I don't think that we could have done more. I think, you know, sometimes when you get involved in these investments only with retrospect you begin to understand the team better, but at

that point in time, I mean, we were quite confident. If we looked at some of the, let's call it the non-active shareholders, one of them at least would have given us a lot of comfort in there, you know, because we know that person as a solid businessperson.

**MR EMMANUEL LEDIGA:** What is his name? What is his name?

**MR ROYITH RAJDHAR:** Well, in here it's Mr Jonathan Beare.

**MR EMMANUEL LEDIGA:** H'm. H'm. Ja. Ja. And so do you check the track record of the businesses, you know, like somebody comes and say 'this is my company', do you check if they have done more companies before the relationships with shareholders, creditors, you know, those kind of issues?

10 **MR ROYITH RAJDHAR:** Through you, Commissioner. Yes, we would have done so and if there was any adverse... Like for example we would do the normal credit checks as well, the CIPC checks in terms of what other businesses they are involved in because you've got to ascertain whether there is also risks of shifting of profits. So those are done during the due diligence phase. Quite a bit of work is done on that.

**MS GILL MARCUS:** Perhaps just one additional point. Again referring to that UIF mandate, part of the information provided is in terms of social impact and it says:

"Approximately 224 permanent jobs will be created post-construction and 300 direct and indirect during construction."

So there was no ambiguity that this was to construct buses.

20 **MR ROYITH RAJDHAR:** Yes. It would have been new buses.

**MS GILL MARCUS:** Ja? It would be new buses for construction.

**MR ROYITH RAJDHAR:** It could not have been just kitting out buses.

**MS GILL MARCUS:** It could not have been re-kitting with that kind of information.

**MR ROYITH RAJDHAR:** Yes.

**MS GILL MARCUS:** And then secondly, if I could ask you to please check whether,

given that you have mentioned his name specifically, Jonathan Beare as a shareholder, whether he is aware of the state of affairs of MST?

**MR ROYITH RAJDHAR:** We will do that.

**MS GILL MARCUS:** Okay.

**ADV NKAISENG KHOOE:** Commissioner, that concludes the testimony of Rajdhar. May I request a 10-minute adjournment to allow Ms Madzikanda to take the stand?

**CHAIRPERSON:** Yes. Before we adjourn, thank you very much, Mr Rajdhar, once again, for coming to testify before us. Thank you so much for the information.

**MR ROYITH RAJDHAR:** Thank you, Commissioner.

10 **CHAIRPERSON:** Okay. That doesn't mean it's the end of you. You might come back at some other time. We'll adjourn until 11:15.

#### **INQUIRY ADJOURNS**

#### **INQUIRY RESUMES**

**COMMISSIONER:** Ms Madzikanda you're the next witness?

**MS CONSTANCE MADZIKANDA:** Yes Commissioner.

**COMMISSIONER:** And I'm sure from yesterday you still remember about the oath – taking the prescribed oath?

**MS CONSTANCE MADZIKANDA:** Yes Commissioner.

**COMMISSIONER:** No objection to do it again?

20 **MS CONSTANCE MADZIKANDA:** No objection.

**COMMISSIONER:** Can you just stand up and do you swear that the evidence your about to give will be truth, the whole truth and nothing but the truth, raise your right hand and say so help me God.

**MS CONSTANCE MADZIKANDA:** So help me God.

**COMMISSIONER:** Thank you so much.

**ADV NKAISENG KHOOE:** Thank you Commissioner. Ms Madzikanda gave an overview of the PMV department and its role yesterday. So if Commissioner allows me – Ms Madzikanda is going to start at paragraph 11 of her statement.

**COMMISSIONER:** Handing over of the MST transaction?

**ADV NKAISENG KHOOE:** That's correct.

**COMMISSIONER:** Yes thank you.

**MS CONSTANCE MADZIKANDA:** "On the 21<sup>st</sup> June 2017 the PMV department and

10 other relevant departments attended a handover meeting in respect of the MST transaction which was convened by the Isibaya operations team. The PMV department was represented by Mr Lesego Motupi in his capacity as a PMV associate. The purpose of the handover was for the transaction team, also known as the deal makers involved in the MST transaction to brief the representatives thereof, amongst others PMV, ESG, Finance and Isabaya operations of the transaction and the investment theses. Following the meeting a disbursement memo prepared by Isibaya operations was submitted to me for signature.

Based on the disbursement memo together with supporting documentation including the transaction agreement I gathered the following:

20 The funding of 21 million in favour of MST had been approved for the manufacture of seven busses which had been ordered by two customers of MST. An extract of the minutes and the resolution of the meeting of the PMC where at the MST funding was approved are attached as Annexure 1A and 1B respectively. The funding would enable MST to explore other chassis suppliers without being limited to Mercedes Benz.

**MS GILL MARCUS**: Sorry can I just ask you in relation to that? It is the manufacture of 7 busses but in the original proposal it was 14 busses. What – how did this amount of money go from 14 to seven and in your examination post the investment were you able to identify how many busses of this nature were in the fleet that was being operated or had in fact been manufactured by MST?

So that we would know the proportion of 7 or 14 in relation to the whole of what MST was about. Then in terms of your 12.3, to explore chassis suppliers without being limited to Mercedes. My understanding from what was said earlier was that the funding was reduced from the 45 million, 30 million down to 21 million precisely because there  
10 was a funding from Mercedes that had been obtained by MST.

So why would this be a rational for the lending that you would want alternative suppliers when they've just obtained exactly that role in the funding through Mercedes? You know it seems to be contradictory as to what the purpose of the money was in the different times.

It was the question of saying it was for expanding the business. It was for the question of you know to enable MST to explore other chassis suppliers. But it was also for their ability to expand their order book. Same money being used in different – would say different objectives but it's the same money.

If you could just clarify some of that for us?

20 **MS CONSTANCE MADZIKANDA**: Thank you Commissioner. In my understanding the initial 14 busses that are in the appraisal report would have included 7 whose chassis had been or would be acquired for Mercedes. But from that appraisal report it seemed there was a challenge in having only Mercedes as the funder or supplier of the chassis and hence they requested funding which would enable them to explore the chassis

procurement from any other supplier without being limited necessarily to Mercedes Benz.

The actual number that was then funded being 7 busses could have been procured from Mercedes or any other supplier but it was essentially meant to procure 7 new busses. Hence the funding would have moved from 30 million to the 21. So the 21 would involve 7 new chassis and the body as well which would then become what the client is now referring to the kitting out – a portion of the funding.

So from the resolution you will see that initially it says that the security will be split from between Mercedes and the PIC. So that would have been if the 14 – the application for  
10 14 had gone through as 14. They could have procured the chassis still from Mercedes and split it with PIC in terms of the security package.

However our 7 is what was concluded and signed on in the transaction agreements and that is what we pursued to verify in the facts that I provide hereafter.

“As security for the funding amongst others the PIC would register a special notarial bond over the bus units as well as a general notarial bond over movable assets acquired from the proceeds of the funding. The term loan facility agreement which I refer to as the agreement and the conditions president satisfaction letter had been signed. I attach a copy of the agreement as Annexure 2. In terms of the agreement the borrowers required  
20 to amongst others apply all amounts borrowed by it under the agreement for the purposes of designing, constructing, assembling, operating and leasing of bus units as per clause 4.1. the purpose of the borrow would also be submit to the PIC audited financial statements by no later than a period 90 days after its financial year end.

On 29 June 2017 I signed the disbursement memo on the basis of the documentation that was provided to me as well as an email from Mr Motupi which I attach hereto as Annexure 3.”

**MS GILL MARCUS**: Thank you, if we can just go to 12.4. The registration of your S&B, that would require certain compliance to have been done. For instance the actual manufacture of the busses prior to registration?

**MS CONSTANCE MADZIKANDA**: Yes Commissioner so the special notarial bond would entail us satisfying ourselves that there are 7 busses that actually exist and are identifiable and the mechanism of identifying them would be the registration documents which would give us a vehicle identification number which is referred to in the statement as a VIN number as well as further to that having physical sight of those busses before we can proceed to have our lawyers register – lodge and register the S&B.

**MS GILL MARCUS**: Has that ever been registered?

**MS CONSTANCE MADZIKANDA**: No.

**MS GILL MARCUS**: So there hasn't ever been compliance with the requirements for registration?

**MS CONSTANCE MADZIKANDA**: No Commissioner we have over a long period tried to verify through at least 4 site visits but we've only been able to match one bus of the 7 listed in the documents provided. The rest that we have been given security documents for refer to registration dates of busses that were manufactured from as far back as 2011 which is what we have established that there are no new busses that were actually manufactured from the funding.

But it's taken a process of at least four or five site visits to have ourselves confident that there is actually no new busses that were manufactured.

**MS GILL MARCUS**: Do you know what actually happened to the money?

**MS CONSTANCE MADZIKANDA**: We did request a breakdown of the usage of funds at some point and that breakdown is one of the Annexure which refers to various components of a bus. Such as electrical, plumbing, hydraulic systems, air conditioning and only two chassis of that list is indicated as having procured from the 21 million.

Based on that breakdown it is where we then established that there is a misalignment in the applications of funds because it's unlikely that PIC would have approved funding for the components of the body of the bus without the chassis because that would then contradict the reason or the requirement for a special notarial bond.

- 10 So the client as Mr Rajdhar eluded to earlier is disputing and the original agreement was that they would acquire new busses in the first place. They have said that discussions right from inception were that they would use the funding to kit out. On the basis of that that's why we have now taken the matter to external legal counsel. Most of this detail is covered in the statement which I'll go through still. But that essentially is the nature of the transaction as it stands.

“Introduction to Investee Company

- 20 PMV established first contact with the client within the month of disbursement which was on the 31<sup>st</sup> July 2017 to request an introductory meeting and site visit and security verification. There were various requests to confirm a meeting date from July 2017 and the client was only able to confirm this visit for the 1<sup>st</sup> November 2017 at the client's Johannesburg premises in Lynbrook Park.”

**MS GILL MARCUS**: Sorry can we just stay with that a second and it may be within your area or not. Would a situation which takes that amount of time to enable a site

visit not have raised concerns about why would this not be something? If you wanting to get a loan that you not available the next day?

**MS CONSTANCE MADZIKANDA**: Chair the client indicated at that time that they were busy with the procurement of the busses and the manufacturer as it is provided. There were requests for update as to where are we in terms of manufacturing these busses. How many have actually been manufactured. How many have you taken delivery of and they confirmed at some point, which I refer to that they had indeed received at that point 6 of the 7 busses. Therefore in terms of the verification, what we understand is the manufacturing process takes about 3 to four months.

- 10 So us going to the site visit in November would have been exactly four months after disbursement and that at that point was a reasonable time still to make a first attempt to physically verify. But in terms of introducing ourselves to the client as now the custodians of the investment, the efforts started in July to get a meeting but was only confirmed for November.

“Steps taken in monitoring the investee company, security verification and registration

- 20 On the 6<sup>th</sup> September 2017 Mr Motupi sent an email to the client requesting an update on the number of busses that had been manufactured and delivered to MST as well as an operational update as per the agreement. A copy Mr Motupi’s email as well as subsequent correspondence are attached as Annexure 4. The following day the client responded that 6 of the 7 busses had indeed been delivered and that the 7<sup>th</sup> bus would be delivered in the following week.

On October 2017 Mr Motupi wrote an email to the client asking for the particulars of the busses to be registered under a special notarial bond.

These particulars were then sent on the 30<sup>th</sup> October 2017 prior to the first meeting. The client provided the list which contained VIN numbers of 7 vehicles which are also in Annexure 4. At the meeting on the 1<sup>st</sup> November 2017 a bus tour was conducted. However the client informed us that the busses on site were not the PIC funded busses as those that already been deployed to service the customer contracts in different parts of the country including Cape Town.

10 Following this meeting a new list of VIN numbers was provided by MST to members of the transaction team who in turn forwarded by email such list to Mr Motupi on 13 March 2018. Copy of the email to Mr Motupi is attached as Annexure 5. It is to be noted that the contents of this list differ from those contained in the list that was provided in October 2017. The second attempt by PMV to physically verify the list of busses that was recently provided was on 15 March 2018. This was at a meeting and site visit with MST management in Cape Town. The PMV department as represented by myself and Mr Motupi.

20 The purpose of the meeting was to amongst others discuss performance and conclude the security package verification. At that meeting we only managed to verify one bus from the 7 VIN numbers provided by the client and this bus had NHBRC branding. Refer to Annexure 5 for that. At the same meeting the client's financial position was discussed and based on the existing contracts and management accounts at the time there were areas of concern regarding MST's ability to service the debt. However based on the pipeline of contracts considered at the meeting is seemed the client would be

in a position to service their first instalment which was due on the 6<sup>th</sup> July 2018.

This was subsequently confirmed by the report sent by the client dated 23 April 2018. A copy of the email is attached as Annexure 6.”

**COMMISSIONER**: Sorry Ms Madzikanda. What did you conclude, what did you think at that meeting when you were not able to verify anyone but one bus?

**MS CONSTANCE MADZIKANDA**: Commissioner at that time the client indicated they were not able to recall all busses – to have all 7 stationery for our verification purposes but what was on site and what was on our list is what we could verify. So of the 7 we  
10 only saw 1 and the rest they said were operational.

Hence we couldn't have seen all 7 at the time.

**COMMISSIONER**: Sorry I might have missed it. Did you get an explanation as to why there were two separate lists and different?

**MS CONSTANCE MADZIKANDA**: I can't remember what the explanation at this point was. But it then is apparent even after that the list kept changing. So even the final list which we have today is different from the first two and this is what we are establishing is that there is actually no specific PIC security and what we've been given is what they have in stock from what they procured a very long time ago.

20 “After the Cape Town meeting Mr Motupi conducted another inspection visit on 23 March 2018 at the Johannesburg offices. Between April and June 2018 various correspondences continued to take place between PMV, the transaction team and the client to clarify the security package. On 13 April 2018 Mr Motupi sent an email to the client and amongst others raised the following findings from the vehicle inspection efforts at the Cape Town and Johannesburg offices.

As opposed to 5 busses only 4 being used for the purposes of the RTIA project we identified and opposed to two busses only one bus being used for the purpose of the NHBRC project was identified. In the same email Mr Motupi requested the client to provide an explanation as to why one of the busses is being refurbished whilst MST is required to manufacture new busses from the facility and provide information on the exact busses that were manufactured utilising the facility including VIN numbers, engine numbers and registration documents. That is also contained in Annexure 5. On 7 May 2018 and after various correspondence from the transaction team and Mr Motupi I addressed an email to the client regarding their non compliance with the agreement as it relates to a amongst others the requirement to register the special notarial bond and the consequences of such non compliance. In their response on 8 May MST disputed non compliance with the agreement. A copy of the email is attached and marked Annexure 7.

10

On 31 May and 1 June 2018 the client was requested to provide a breakdown of how the funds were utilised. From the client's submission it was discovered that only two chassis were purchased and the balance of funds were applied towards various internal fittings for 7 busses. Copies of those emails and the submission is attached and marked Annexure 8A and 8B. In light of the client's submission we convened a meeting with the client for the 12<sup>th</sup> and 13<sup>th</sup> July in Cape Town where amongst others we sought to ascertain the reasons for the misalignment in the application of funds. To identify busses in respect of which the funds were utilised and to discuss the default on payment of the first instalment which was due on 6 July.

20

In relation to the asset verification exercise we were shown some busses that were on the premises. Of those busses none appeared to be new and this was subsequently evidenced by registration documents that the clients sent later that day. A copy of the email and attachments are attached hereto and marked Annexure 9. During the meeting we requested a final asset list to ascertain the extent to which our loan security could be enhanced further in the circumstances. The asset list provided showed a fleet of 27 vehicles reported to be on MST's balance sheet and only 6 of these were unencumbered busses. A copy of the Annexure list is attached and marked  
10 Annexure 10. From the period of the disbursement up to July 2018 PMV and the transaction team had been corresponding with TGR attorneys who were mandated to register the security package.

TGR Attorneys had been requesting the asset list on various dates and PMV would provide update on the status of verification. During November 2018 our internal legal proposed that we send a list of three other law firms to the client to consider contracting with one of them for the purposes of registering special notary bond on the unincumbent busses. The list was forwarded to the client by Mr Motupi on 22<sup>nd</sup> November 2018<sup>1</sup> and copies of relevant correspondence are attached as Annexure 11. The client responded on 11  
20 December indicating that the directors of the company were not willing to incur any further costs until they afforded an opportunity to meet with "key decision makers within the PIC".

#### Compliance reporting undertakings

From December 2017 to date various emails have been sent to the client requesting audited financial statements from 2016 up to 2018. The client

has been committing to providing the requested information but has not delivered on any of those dates. To date the client has provided different reasons why they could not submit the audited financial statements. Copies of the relevant emails are attached hereto marked Annexure 12.”

**ADV NKAISENG KHOOE:** Sorry can I just stop you. Can I take you back to paragraph 15.18. Did the client – do you know who the clients were talking about when they said they wanted an opportunity to speak with the key decision makers, do you know who they were talking about there?

**MS CONSTANCE MADZIKANDA:** I think from this email we established they would  
10 have wanted to meet with Executive Head of Impact Investing and or his senior. But we did respond to this to reiterate that there is no key individual that is able to make a decision about any client’s request in isolation without taking such request to a committee.

Therefore we did notify them that whether or not they were to meet the key executives we would be the first place – in the first place the team that would assess whether that request or whether any of their representations are necessary to take to a committee for approval.

“16.2 It is to be observed that the client has reported that their challenges in  
getting their auditors to sign off the statements as their auditors have  
20 expressed unwillingness to sign the audited financial statements on back of perceived reputational risk of MST as a result of their association with PIC. However it appeared from their correspondence with their auditors that the auditors were unable to finalise the audit on the basis of a possible reportable irregularity. That is also contained in Annexure 12.

The failure to submit the audited financial statement has impeded our ability to assess the financial position of the client in full as we cannot place reliance on the management accounts.

#### Debt servicing

The MST loan facility has a tenure of 7 years by annual repayments due in July and January of each year. The client has failed to repay the first and second instalments on the loan due on 6 July 2018 and 6 January 2019 respectively. As mentioned above a meeting was held with the client during March being three months prior to the instalment due date to determine among other things whether the client was in a financial position to start servicing the loan.

10

Another meeting was convened on 12 July 2018 to discuss the default on payment, non compliance with reporting undertakings and failure to register the special notarial bond. The MST management team indicated that they could only afford 420 000 of the R2 243 238,41 due to the PIC. The team agreed to the part payment and requested MST to submit a debt restructuring proposal in relation to the balance. This 420 000 was paid on the 13<sup>th</sup> July 2018.

At the same meeting the client further requested a repayment moratorium for a period of six months in order to enable us to consider these proposals we requested MST to provide us with June management accounts, outstanding 2016 and 2017 audited financial statements and all existing contracts, the deal pipeline and projections for the following 12 month period. To date all outstanding audited financial statements – all audited financial statements remain outstanding.”

20

**MR EMANNUEL LEDIGA**: Question.

**MS CONSTANCE MADZIKANDA**: Yes sir.

**MR EMANNUEL LEDIGA**: Just to check in terms of PIC processes and systems in debt collection or you know security packages, debt collection, servicing debts and all that. You know when you borrow money from a bank you service your debt immediately you know and if you are not paying it. They write letters, they'll really – they come for you and I am just wondering when you compare the systems that banks use versus what the PIC is doing.

I mean it seems there is a huge there. Would you want to comment on that?

10 **MS CONSTANCE MADZIKANDA**: Indeed Commissioner there is a difference in the banks how PIC processes at present. With banks there are automated systems which send out those notifications of payments due. In the instance of PIC we depend on the loan amortisation schedules which are kept by the finance team.

But because we are – when we are monitoring we keep track of when payments are due and on the date of payment we liaise with finance to establish whether or not the bank accounts they have traced that payment that's coming from the client and if after finance confirms that there is a payment indeed or there isn't a payment we then proceed to discuss or engage with the client as to the reasons.

20 But even prior to that we always seek to establish a few months before the payment is due whether or not the client will be in a good financial position at the time of the loan instalments being due to repay the debt. Which is what we did with MST in this instance three months prior to the loan being due and we got reassurance from the client that they would be in a position to.

**MR EMANNUEL LEDIGA**: Ja so are you happy currently with your systems and the way things are or would you like to get closer to the banks processes - systems?

**MS CONSTANCE MADZIKANDA:** Commissioner it's a significant area that would really improve our processes if we could get an automated system to assist us to track such things and issue breach notices and default letters at the point where the defaults and these breaches occur rather than having to first initiate a document that must go to legal for them to draft and then have us review and revert to the client on the breaches. So that would explain why in some of these instances you will find that the default letters are sent a couple of weeks and maybe in some instances more than a month after the actual default event has happened.

So it is an area of improvement which I referred to yesterday in my recommendations  
10 that it would assist the team greatly and in managing and minimising losses of the PIC to have a system that assist us with such dispatching of these notices as early as possible.

**MR EMANUEL LEDIGA:** Yes because this is a manual process and things you know slip through the fingers and you know it seems it's quite a difficult thing to do, you know from the PIC's side.

**MS CONSTANCE MADZIKANDA:** I agree Commissioner. But we try to have these gaps covered. It is difficult to discharge your duties when you have to keep track of all of these requirements or all of these reporting undertakings and compliance areas from a manual point of view.

20 But I understand that there is a system that is being explored and possibly within the next 12 months we should be able to improve our administration processes around that.

**MR EMANUEL LEDIGA:** And sort of how many of such loans are you looking after you know as a department in terms of number roughly?

**MS CONSTANCE MADZIKANDA:** In terms of the number it's about a 100 but you will find that in some instances one client will have more than one type of instrument. So

within one client you could have up to 5 different loan facilities and equity instruments – various types of instruments. So if on average I say one client has two or three facilities we looking at about 200 or so loan facility agreements that you would be referencing.

**CHAIRPERSON:** And do you have the same problem with the security packages, you know, the follow up and to make sure that the notarial bonds are being processed properly and all that? Besides the – now the debt servicing, do you have other processes that are better in terms of the security packages, which is a struggle, you know, from this side also.

10 **MS CONSTANCE MADZIKANDA:** In terms of the security packages, most of them are usually intact at the point of approval or disbursement. Where a special notarial bond is required is after the client has been given the funds and have they have to go and procure or manufacture or whatever it is the purpose of funding was.

We have not... In my portfolio we have not had a problem verifying security on other investments. This is one where we have committed quite immense efforts and a lot of time in trying to complete that process, but I do not remember any other in the portfolio that have given this much difficulty.

**CHAIRPERSON:** Ja, because you see, if you not following up and people are not seeing notices, I mean, sort of. Is it not that, you know, people just say: I am not going  
20 to repay this. You know, if they are not seeing effort from the PIC to say: You need to pay this loan. Is it not correct?

**MS CONSTANCE MADZIKANDA:** It is correct. All clients by virtue of signing legal agreements, undertake that they will make payment on certain dates, but where they are not able to, they do refer. Some will notify us ahead of time that we are having liquidity challenges and hence that would require us to initiate a restructuring process

prior to the date of instalment falling due.

In other instances, we then pick up the defaults after they have happened and we then try and resolve either by extending the repayment or which ever mechanism we agree with the transaction team to restructure the payments.

**CHAIRPERSON:** All right, thanks.

**MS CONSTANCE MADZIKANDA:** In terms of quarterly reporting, under performance rating, the first report in MST was for the quarter ending September 2017 and MST's risk classification evolved as follows.

In September 2017 we have classified it as performing, although there was a cautionary  
10 concern reported as there were variances against the initial projections. In December 2017 it was placed as a watch list investment due to the security issues that we could not complete. We had not completed at the time.

In June 2018 and you will notice that between December and June there is no much performance rating because as I have eluded to yesterday, in March we do not submit reporting as it is a financial valuation – year-end valuation process that takes place and supersedes our processes.

In June 2018 the investment was placed in distress because of default in repayments and the continued non-compliance in reporting. September and December, they also remained as distressed because of the continued default position.

20 Under financial performance:

From the first quarter of the disbursement the investment reflected strain, loss making and deteriorated further until the loan was fully impaired in September 2018. The breaches and non-compliances with registration of special notarial bond and the repayment defaults were reflected in the quarterly reporting submitted to the various committees at each quarter.

On the 3<sup>rd</sup> October 2018, PMV attended a PMC meeting, scheduled to report and discuss distressed investments, one of which was MST. This was a combined meeting for PMV and ESG teams to discuss quarterly PMV and ESG reports, respectively, for the quarter ending June.

At that meeting I was instructed by Mr Rogger not to discuss the MST transaction. He also asked me to inform my ESG colleagues, Mrs Bahangwe Navella that we should not discuss the MST transaction. As a result, the issues on the MST transaction were not discussed at this meeting.

**ADV NKAISENG KHOOE**: Can I stop you at this point? Do you know why Mr Rogger  
10 said you should not bring up the MST issue at the PMC meeting?

**MS CONSTANCE MADZIKANDA**: He indicated that at this point it was not a factual...  
He was not comfortable that the facts were specifically that there had been no busses  
and because the client would insist, in fact, that the busses are there somewhere when  
they would discuss with him. He was not comfortable that at this point we appraise the  
committee and say for a fact that there are no busses.

I think he wanted us to explore the matter further and see if there could be anymore  
that could be done before we place it on record that indeed there are no busses.

**ADV NKAISENG KHOOE**: And this was almost a year later.

**MS CONSTANCE MADZIKANDA**: This was almost a year later, but the subsequent  
20 quotas would have also highlighted that information in that quarter. It is just that at this  
meeting it was specifically to have a discussion with the committee and have them note  
that these events have taken place.

But he was uncomfortable, because he felt from – I think he has eluded to it earlier, that  
the client would make different representations and at some point he felt that there was  
a doubt that we were actually had done enough to find these busses.

Hence, why he said he would rather not have a speak to the matters in that meeting.

**ADV NKAISENG KHOOE**: Thank you.

**CHAIRPERSON**: But was there any doubt at that stage that there may or may not be busses? I mean, you had been to Cape Town once or twice and never found any seven new busses.

**MS CONSTANCE MADZIKANDA**: We had not found any busses, indeed. And what we had been given as registration documents, related to busses that were old. But because they would want to see key decision makers and he eluded that he had spoken to them.

10 They would say that everything is in place. So, I think from his perspective there was doubts that we were doing the correct thing or we were following proper processes and applying efforts for this, because the client is saying something contradictory.

And to this date, they still maintain that in the first place, you should not been looking for new busses, because that was never the agreement. So, at that point he did say that it would be a bit premature to say that, that there no busses because we still have not satisfied ourselves that this is the matter.

**CHAIRPERSON**: Ja, I am not sure that I am satisfied with that. It bothers me. On the one side trying to say: We never said that we are going to manufacture or have seven busses manufactured. We were not talking about that at all. And on the other hand  
20 you are saying: We do not know whether there were new busses manufactured or not.  
How do you reconcile those two?

**MS CONSTANCE MADZIKANDA**: Commissioner, it is something that has been a difficulty, even to this point which is why the matter has been taken to PMC to give or make a decision about what is the next action to take to satisfy ourselves that indeed there is a distinct contravention in the legal agreements.

We are basing on what submissions client had given us for the security package. It was not aligned with what we were following up on in the legal, but they would say that, that what we were following up on is not the spirit of the agreement in the first place.

That is where the two issues – where we diverged with the client is that, they are saying: We should not have been looking for new busses in the first place and you are aware of this, because at DD stage they referred to in an email that the PIC funding should have – was agreed to have just been a general commercial facility, rather than a specific funding facility for the seven busses.

10 So, because of this divergence we had to get a PMC approval to say: How do we proceed, given the client maintaining their position. Being, they were never meant to comply with new busses and we are saying, we have always known that the funding was for new busses.

So, the PMC decision that has been taken in this regard is that issued a default letter and just accelerate on that facility and recover what you can and this has been referred to external legal counsel to deal with, going forward.

**CHAIRPERSON:** But I am sure you realise that you have never found seven new busses.

20 **MS CONSTANCE MADZIKANDA:** I do not think that the bus... There no new busses, no. But there are busses that we have been given and as I have eluded to earlier, they are as old as 2011.

**CHAIRPERSON:** Ja, a broad question, you know, coming from that point and I do know that you still have to talk to the transaction team. But are there Chinese walls between PMV and transaction teams? You know, broadly.

**MS CONSTANCE MADZIKANDA:** No, Commissioner. In fact, the level of engagement with the deal team is quite robust and very frequent. To the extent that where we start

to experience difficulties in having the client responding to our requests. We also rope in the *transacters* to assist us and they do come in.

They are meant to be kept abreast of all the developments on their transactions because they have contracted on a particular set of numbers that they have deemed achievable in the future. There is a target return that is given in appraising the document and getting it approved.

There is a target return that we always or they seek to achieve and because of our efforts of monitoring we have to notify them where we start to see the divergence what the base case was which was the basis of facts which the transaction team would have  
10 had to relate to the committee for approval.

Once there is a divergence with that base case, we have to keep them involved because ultimately the countability within PIC for transaction is with the deal team. So, we speak to them on a very frequent basis and you would see from the statement that I refer to all engagements having come from the different representatives of their team, our teams and the other teams.

**CHAIRPERSON:** But they cannot stop you from making some conclusions or whatever. I mean, you do speak to them but they cannot influence you in any way, broadly.

**MS CONSTANCE MADZIKANDA:** They cannot influence the activities we seek to  
20 undertake to establish what the facts are, but because they have to review with us any documentation that must go to PIC, they sign as reviewers and co-compliers.

To that extent it is necessary to have ourselves and the transaction teams on the same page because then, if there is a divergent in views as some of the documents we would require to take to PMC, cannot be approved and that is why even the submission of the document itself is subject to the executive head of the deal team, signing that he is

comfortable with the facts that are contained and that are being submitted to the PMC.

**CHAIRPERSON:** All right, fair enough.

**MS CONSTANCE MADZIKANDA:** Thank you, Commissioner.

On client's request for restructuring:

On the 5<sup>th</sup> September 2018 the client informed us that they were in a better position than the last time we met and would be sending a well-motivated proposal for our consideration.

On the 7<sup>th</sup> September 2018, the client, accordingly, sent us a proposal with the following three options to consider. First option; to defer payments to April 2019 and  
10 commence monthly repayments instead of the bi-annual repayments.

Second option was to further advanced 9 million which the client indicated would be used to settle some of their creditors and then commence PIC monthly repayments from October 2018.

The third option, which they said was the first price, is to increase the facility by 24 million to enable MST to repay other lenders and creditors. First, then starting paying PIC monthly repayments from October 2018. A copy of the proposal is attached as Annexure 13.

After considering the options, we discussed together with the transaction team and decided not to support options 2 and 3 that only option 1 may be further entertained on  
20 condition that the client provided the outstanding financials.

Upon the client's failure to provide the outstanding financials we issued a default notice on 12<sup>th</sup> September 2018, noting the various contraventions of the legal agreements. A copy of the default notice is attached to and marked Annexure 14.

In January 2019 we noticed that the client has rebranded itself utilising a new name without notification of the change of name in contravention of the agreement. Upon

inquiry the client informed us that he had undertaken the rebranding exercise as a result of the negative media publicity associated with the PIC.

The client further failed to provide the long outstanding information regarding the company's strategy and repayment plans and insisted that he will provide this information at the meeting with "key decision makers". Copies of the email correspondence is attached as Annexure 15.

**ADV NKAISENG KHOOE:** My apologies. So, on paragraph 24, the client did not inform you that they had changed their trading name. They just did that. You picked it up.

10 **MS CONSTANCE MADZIKANDA:** Yes, we had been corresponding with the CFO and after one of the emails in January 2019, we picked up that his email address had changed to @extent.co versus at @mstgroup.

And we specifically sent a letter to or prior to sending that letter, we asked our operations team to assist us to check on the database whether the name Extent Mobility has the same registration number on the SIPC as the MST name.

And from there, that is where we have established that the name change is actually that MST is no longer MST but Extent Mobility and we then asked just to have it confirmed by the client that they indicate if that was indeed a name change and in email correspondence they then confirmed that in fact they had undertaken the full rebranding  
20 exercise to disassociate with the impact of the negative publicity, associated with PIC.

**ADV NKAISENG KHOOE:** And from their point of view, they did not see a problem with rebranding without actually communicating this with PIC?

**MS CONSTANCE MADZIKANDA:** It would seem that it was not something that they saw as necessary because they are required. It is a material change because our legal agreements refer to MST and there is now a company called Extent.

So, I think just legally it would be necessary for them to notify us as a lender that their counterparts name is no longer MST but that it is Extent Mobility, so that we can have an addendum to the legal, indicating such. Internal decisions ...[intervenes].

**CHAIRPERSON**: Okay, paragraph. Ja...[intervenes].

**MS CONSTANCE MADZIKANDA**: Yes, sir.

**CHAIRPERSON**: Just looking at paragraph 20, the client asked you guys to give them more money, but given the fact that you were struggling with the financials, the security package and the busses, there was a dispute about, I mean, how – why did the client feel that they could ask for more money from the PIC?

10 **MS CONSTANCE MADZIKANDA**: Commissioner, I cannot answer as to why they felt they – it would be a considerable proposal to request us to inject more funding if we are in the first place - the first funding as not actually been applied correctly. I do not understand why they would think this is a plausible type of option for us to consider, but we did indicate that whatever their proposal is would have to be considered with audited financial statements.

For us to get a good understanding of where exactly they are in terms of their growing concern. Are they still profitable and is this is a business that is sustainable.

**CHAIRPERSON**: Because I thought that when you beg for money you must supply all the stuff to get the money. Is it not?

20 **MS CONSTANCE MADZIKANDA**: That is how it should be, but with this client not.

**CHAIRPERSON**: Okay.

**MS CONSTANCE MADZIKANDA**: Yes.

Internal decisions taken with regards to MST:

The client's non-compliance with reporting undertakings, in this case, audited financial statements and the lack of cooperation regarding the special notarial bond registration,

was tabled at the PIC meeting held on 26 February 2019.

Due to the fact that at a reasonable period had passed during which all team members had made efforts to make sure the fulfilments of the client's obligation, to no avail, the PMC made a decision to refer the matter to legal counsel for the purposes of enforcing PIC's rights under the agreement.

The PMC further resolved that another default letter be send and this letter was duly sent to the client on the 5<sup>th</sup> March 2019. A copy of the letter is attached and marked as Annexure 16.

10 The client has responded to refute the contents of the default letter and are requesting to meet with PIC to resolve the matter. The legal department has commence with the process of briefing external legal counsel on the matter and as a result, we have been advised to refrain from communicating further with the client until the legal team engaged with them.

But as Roy has eluded, Mr Rogger has eluded earlier, this has already been communicated legally by external counsel to the client through another default letter as of yesterday. Commissioner, that concludes my statement on the MST.

**CHAIRPERSON:** Question. So, this company or this work which the company is doing seems to be good work. Health care, education and everything. Commendable work. But I am just wondering. What in your opinion or what do you think actually went  
20 wrong? I mean, it seems like everything went wrong in this sort of noble effort with some profit potential.

**MS CONSTANCE MADZIKANDA:** Commissioner, indeed the nature of the business of a company is that it has a high social impact. They are very visible in what are mostly remote areas where physical infrastructure for some of these government departments cannot be put up.

Hence, they provide that mobile solution of catering to specific governing department's needs and ensuring the visibility of those governing departments in different areas of the country.

But in this case, what I think. This transaction could have gone better had the busses just been manufactured as per specification of the funding. And secondly, if the client could just have cooperated and ensured compliance with reporting undertakings.

In my view, it cannot be that the negative publicity related to the PIC and girlfriend story has any bearing on whether or not they can conclude their audits, because the two are unrelated. Audits are audits and there are insurance mechanisms.

- 10 I cannot determine what exactly here was the problem, except that lack of cooperation and probably better processes within the client's systems themselves but they are now using this non-compliance and using the PIC as a scape goat for not being able to supply this information and in refuting the contents of our default letter, they do indicate that every instance of non-compliance is of PIC's negative media issues.

**CHAIRPERSON:** Ja, the final question is. On the recommendations that you had yesterday. I just do not have the page now, but would that include the system you mentioned, the automated system and the other issues? Just if you could come again and mention them a bit again. Let us see what... Do you have the page there, by any chance? The recommendations page.

- 20 **MS CONSTANCE MADZIKANDA:** No, I do not, Commissioner, but I do – I am conversant with what I was recommending. In terms of what I recommend as being required or what could further enhance PMV's process.

It is a system that is automated which enables us to... It gives us more agility in terms of responding to issues such as these. Why I mention it is because as I eluded to earlier, sometimes the client may deem the period after default if we have not provided

a notice.

They may deem it as a condonement of that breach and therefore, my recommendation is that, if there is an automated system, you are able to dispatch these notices immediately as the event of default occurs and that should ring a bell to the client. To say that the PIC is aware of the non-compliance and does not waive its right.

In fact, we reserve our rights going forward. Whatever remedial action or remedial proposal, the client can come back to us to consider. So, that the automation is essentially to assist us to discharge our duties and have these breaches noticed as soon as they happen. So, clients do not feel that PIC is soft handed or that they do not  
10 think that it is a condonement of those breaches or defaults by virtue of the length of time it has taken for us issue those letters.

**CHAIRPERSON:** Yes, okay. All right. Thanks. I think I am done for now.

**MR EMMANUEL LEDIGA(?):** Can I just ask on your paragraph 27? The client has responded to refute the contents of the default letter. What are the grounds upon which they relied to refute that contents of your letter?

**MS CONSTANCE MADZIKANDA:** Essentially, they are saying that all the defaults events we have referred in the notice of default or in the letter of default, which is that there have been misrepresentations in terms of how the application of funds was utilised and in that the purpose of the funding was for the manufacturing of new busses  
20 and as well as the failure to report.

They are saying that all of these issues cannot be attributed to non-compliance on their part and that all these material issues have stemmed from the challenges they have had to contend with due to the MST's and PIC's media articles.

So, what they are saying is, in fact, by us giving them a default letter, we are making serious allegations and false allegations, according to them. To say that they

misrepresented themselves in complying with the agreements.

**MR EMMANUEL LEDIGA**: I do not know whether you will be able to, you know, enlighten us on this issue. There was some allegations mentioned in the Budlender Report. I am sure you remember there was investigations by Advocate Budlender in respect and MST was one of those matters that he was supposed to look at.

And he mentions allegations and I mean, they were allegations that Ms Pretty Louw had some business relationship with MST. Do you know anything about that?

**MS CONSTANCE MADZIKANDA**: No, Commissioner. In fact, up until the media articles, I did not know of the existence of Ms Pretty Louw and even pursuant to those  
10 allegations, I still have not met Ms Pretty Louw and I do not – I have not come across her name or involvement in any of the monitoring that we have been doing. So, I do not have any information on her involvement at all.

**MR EMMANUEL LEDIGA**: Fair enough. Okay. And the last question from my side. What do you think, are there any lessons to be learned from this transaction? Lessons in particular relating to whether the PIC should advance loans and not make sure that the money is going to be utilised for the purposes that it was – I do not want to use the term – but *boughtedly*(?) sought?

**MS CONSTANCE MADZIKANDA**: Commissioner, I would think on transaction such as this which is contract financing, maybe what could be considered going forward is,  
20 instead of just dispatching or disbursing the funds directly to the client, maybe we can request that the client provides a supporting documentation for procurement of whatever the purpose of the funds are and then against that we would make the payment,.

Just to satisfy ourselves that the funding has indeed gone to the supply of that supplies that the customer or the client needs, to the extent that it does not interfere

operationally with the client's day to day activities.

But I think because we were financing specific assets, maybe what we can considering going forward is paying directly or on the back of an invoice which we can then trace such payment once the payment has been made.

**MR EMMANUEL LEDIGA:** Just a follow up question from the Judge here, does PMV monitor CSI funds you know from the PIC because there was that 5 million which was given out.

**MS CONSTANCE MADZIKANDA:** Commissioner PMV does not monitor any of the specific PIC corporate matters so if there are any CSI projects which are linked to an investment that has been funded that part of the CIC is not monitored by PMC it's considered that the PIC corporate matters and we deal with only the investment related aspects.

**CHAIRPERSON:** Yes Ms Madzikanda thank you so much for your time and thank you so much for the evidence that you have placed before us, we really appreciate that but again whether this is it for you, you might be called again to come back and enlighten us on some aspect we don't know, but for now thank you very much.

**MS CONSTANCE MADZIKANDA:** Thank you Commissioner.

**ADV NKAISENG KHOOE:** Commissioner I just wanted to provide some clarification on the Pretty Louw issue. She was on the 5 million CSI one and not the 21 Million MST one.

**CHAIRPERSON:** That's fine, that's fine we shouldn't debate it.

**ADV NKAISENG KHOOE:** Commissioner at this point in time I'm told by Mr Mohapi my colleague that he's ready with the next witness.

**CHAIRPERSON:** I think there was a request that Mr Rajdhar comes back for a few minutes. We can take a five minute break for that just to arrange the chairs again.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Mr Rajdhar just to remind you, you're still under oath.

**MR ROYITH RAJDHAR:** Yes.

**MS GILL MARCUS:** Thanks very much and sorry to call you back I hope you hadn't gone and come back but be that as it may, I think what we would like to do is because obviously what we've been looking at and the evidence presented so far has been about MST but that was not the reason originally that this matter came to the attention of the Commission and formed part of its terms of reference that was related to the  
10 James Nogu e-mails and allegations about relationships with the Ms Pretty Louw and therefore the issue that we need to perhaps look at is what actually happened in relation to Ms Pretty Louw. So if I could start with that Mr Rajdhar I want to come back to the minute in June 2016 which I asked earlier that the MST should improve its BEE level through incorporating a female BEE group in the shareholding and a female at operational level right and to ask if you can just confirm when this airport meeting took place between the Minister, Ms Pretty Louw and the CEO Mr Matjila, I think it was around April of the same year, 2016 is that correct, does anybody know?

**MR ROYITH RAJDHAR:** Through you Commissioner, I actually don't know when that meeting took place, in fact I was told to look at that date but I was thinking about  
20 another meeting at the airport which I attended but with Mr Fernando that's ... (intervention)

**MS GILL MARCUS:** That's a different question.

**MR ROYITH RAJDHAR:** Ja but on when Dr Matjila met at the, I wouldn't know they did.

**MS GILL MARCUS:** Perhaps our legal team can just see if we can find out or if we

know anything about that because it matters in relation to this resolution if we take the further information, if we go to the Budlender Report, because the Budlender Report says, I just want to see ... the Budlender Report talks of the meeting but doesn't give the date that I could see and I just want to get to the right position in the document here and I will just put it into the record from the Budlender Report; Ms Louw is not a shareholder or director or employee of MST but she did have a commercial and financial relationship from which she derived financial benefit. They run a company called Maison Holdings, and I'm not reading it exactly, which is a vehicle for a number of current or intended businesses and MST, Maison Holdings was introduced to MST by

10 a Mr Wiseman Khumalo when he was seeking a partner for submitting a tender to the KwaZulu-Natal Education Department. And in April 2016 was the first meeting between, with MST in that regard. They entered into in July 2016, so after the June meeting about improve your BEE credentials, they entered into a formal joint venture agreement with MST which was termed a consultancy and joint venture agreement, it provided inter alia for the following; MST is the owner of mobile units which seek to supply various government departments in South Africa. MST was approached by

20 Maison with the proposal of sourcing clients on behalf of MST in order to supply mobile units to them. They had identified a number of potential clients to supply the mobile units and has the experience and skills to facilitate a sale and supply of mobile units to various clients. MST engaged the services of Maison to procure suitable clients and Maison would also be responsible for the business development and account management of the projects brought on by them. So they were appointed as consultant and facilitator with the primary objective of Maison will be to facilitate, negotiate and procure the conclusion of an agreement in terms of which the client will either purchase or rent the mobile units from MST. For this they'll be paid a facilitation fee and this is an

important question, in April 2017 MST paid Maison Holdings R438 000,00 plus VAT for work done to date and this is the reason stated in an e-mail from MST to the PIC. So the question being asked is that the payment was made to look at improving BEE status and motivate and stimulate our partnership to create further sales and what I'm asking you is this set up with MST Maison Holdings introduction by a Minister through the CEO related to the recommendation that this requires an improvement in your BEE status and a female operational contract because then there's something else going on here that does not look very good. Ms Louw undertook to provide a copy of the invoice which was never shown to the Budlender Commission and in the MST ledger it is  
10 reflected as consulting fees but it is a joint venture. Now you then follow that with a CSI of 5 million which was related to Ms Pretty Louw as far as I understood the initial discussions and a R21 million facilitation, I mean loan to MST. Can you let us know exactly what you understand was going on here because this does not sit very comfortably?

**MR ROYITH RAJDHAR:** Through you Commissioner, thank you. I'm aware of the agreement; I think it was myself who had submitted that agreement to the Budlender Inquiry. If I can start with the ... (intervention)

**CHAIRPERSON:** Sorry which agreement you talking about?

**MR ROYITH RAJDHAR:** There's an agreement between Maison and MST which Ms  
20 Marcus is reading a lot of the information from.

**CHAIRPERSON:** And you say you made it available to the Budlender Commission?

**MR ROYITH RAJDHAR:** Yes I have made it available. If I can start, as I understand it and I don't have the dates of it but I think the date of the agreement might have been around when the 21 million or predated I'm not quite sure but what I can say is that we were aware of, the only time that we became aware of that agreement is when the

publicity started and we started asking for this kind of information and at the time what I was made aware of by the CEO of MST was that Maison Holdings had helped, had been assisting MST in introducing them to various clients. Now off the top of my head I remember them saying the Department of Economic Development in KwaZulu-Natal, Road Accident Fund is the two names that come to mind. So but no, there was no conclusion of any transaction, they had introduced them but it never resulted in any benefit. So as I mentioned earlier in my testimony ... (intervention)

**MS GILL MARCUS:** Sorry just to be clear on that because the agreement was in July 2016 between MST and Maison but what, just to be clear, what you're saying is that  
10 although they had introduced them to a number of entities, Road Accident Fund and others there was no business outcome concluded from that, it was an introduction and that was it?

**MR ROYITH RAJDHAR:** Yes there was no ... (intervention)

**MS GILL MARCUS:** There was no realisation of a deal?

**MR ROYITH RAJDHAR:** That's it, that's true there was no realisation of a deal. Now if we take, so when we were, when we had or when I had first met with Ms Pretty Louw it would have been shortly after the conclusion of the, as you will know the first time there was an approval of R30 million but that was not accepted by the client, then the second time there was an approval on the 8<sup>th</sup> June and that was the final approval and I think  
20 disbursements happened on the 6<sup>th</sup> July. So I think probably about a month two thereafter is when I had met Ms Pretty Louw at the PIC office and at that meeting she had been discussing the issue about doing some joint venture with MST. There was a bit of confusion in the meeting because I thought but why is she coming to the meeting now when we had already concluded that transaction so they were talking at cross-purposes. She was referring to a CSI discussion which I was never part of but then

eventually I figured that she was talking about a CSI initiative and I had mentioned in that meeting that the CSI initiative does not fall within my domain, that falls within a domain in the finance, in the CFO office. So that was the discussion there.

Subsequently we were furnished with a proposal of funding between R23 million and R37 million on CSI making a commitment over a three to five year period. Now what, because my team had already worked on this project my team took that proposal and went to Exco because it's a corporate decision it wouldn't go to PMC and the Exco was not comfortable with that. They felt they liked the project but felt that the amount was too much and at that meeting the general manager of finance was instructed to go and  
10 look at what budget was available so that that could be committed and then what I had undertook is that given whatever if there was a budget I could look into other investee companies in terms of their spend or their BBBEE to augment that contribution.

So I think it was round about in January or February the following year that at Exco it was decided let's commit an amount of R5 million and that was in anticipation of the 31 March year end coming and PIC also having to contribute to CSI. So that was how the – so then that 5 million was dealt with directly with MST so that proposal of the R23 to R37 million involving a joint venture with Maison that was dispensed to it, we didn't agree to that. Now subsequently when more of these media articles were coming out and we were getting queries one of the questions asked was did Maison receive any  
20 fee and that is when I'd sent, I don't know whether I'd sent an e-mail or I had spoken to Mr Fernando about the amount and then he told me, then they sent me an e-mail saying it was R438 000,00.

Now I think that if you say the 438 000 I don't think it would be on a consulting fee but if you add VAT to it you'll see that amount is going to come to exactly R500 000,00 alright. So one could also say R500 000,00 is 10% of R5 million right. So that's the

only thing, I can't say with certainty, but the amount rounds to R500 000,00 it amounts to 10% that's the only thing I can deduce from it.

**MS GILL MARCUS:** I could just try to go back to the timelines a little bit because it's a question that Ms Louw's, according to the Budlender Report and I'm going with that, Ms Louw's first contact with Dr Matjila and the PIC was on the 4<sup>th</sup> April 2016 and that stage Ms Louw had no connection with MST. Her first contact with MST was on about 22<sup>nd</sup> April 2016 and from there onwards then we get into all the PIC's decision-making processes and MST sends Ms Louw a proposal for the PIC on the bus issues and then there is a request for the CSI funding and on the 9<sup>th</sup> June Dr Matjila sends a message  
10 to you with the comment for the 5 million please assist. And therefore the connection relates back to that, in my mind, the connection relates back to that meeting at the airport. So if this is the outcome of it then what other influence in relation to business with the Minister or business with Government relates to Maison and that is the purpose of the MST Maison joint venture. So my concern here is there seems to be a process by which there's a meeting, there's a request, there's a connection made to MST, there's a CSI, you may the CSI 5 million and there's a fee paid for services rendered which the PIC is notified on that this is the fee paid. It does call into question the decision-making and I accept you may not have been part of all of that but it does raise questions about process and the way the decisions are taken for me.

20 **MR ROYITH RAJDHAR:** Through you Commissioner, all I can say is that through various stages of the transactions we had done as far as we were concerned we had followed process, we were unaware of things until the media coverage was coming out then we had to go back and try and look at things. But as we had done the transactions it was just in the normal ordinary course of business and we never, let's put it I mean it was just like any other transaction

**MS GILL MARCUS:** Accepting, accepting you see my concern comes back to the minutes of that meeting. If you create an expectation or an assumption that in order to qualify for a PIC in a legitimate manner, a properly invest – this is a good business we're coming to the PIC for funding and the concern expressed by the Committee is the Committee emphasised that MST should improve its BEE level through incorporating a female BEE group in the shareholding and a female at operational level are you not creating the circumstances in which this kind of activity is inevitable?

**MR ROYITH RAJDHAR:** I take the point Ms Marcus.

**CHAIRPERSON:** But as far as you are concerned you don't know of any amount, this  
10 480 000 that we are talking about did not come from the PIC as far as you are concerned?

**MR ROYITH RAJDHAR:** As far as I'm concerned it didn't come from PIC and it is MST who actually confirmed that they had paid the R438 000,00 excluding VAT to Maison so they have confirmed that.

**MS GILL MARCUS:** But why would they have confirmed to the PIC if it was a joint venture between them if it was not relevant to the PIC in relation either to the minute or to something else? Why would they have put it in a letter to you that they've paid a consultant fee?

**MR ROYITH RAJDHAR:** I think there was a question raised and I'm not sure whether  
20 it was from the media but there was a question that was raised as to whether any fees were paid so I merely requested it from MST did you pay any fees and they confirmed that they did.

**MS GILL MARCUS:** And do we know if this was the only fee or is this the only fee that was recorded at the time that you had because again if it was the only fee then there's another question because then the question of a joint venture and ongoing activity in

relation to that comes in?

**MR ROYITH RAJDHAR:** To the best of my knowledge I only know of that fee that was paid, that is what MST had communicated to me.

**CHAIRPERSON:** And what would they have paid it for, is it in respect of the 21 million or something else?

**MR ROYITH RAJDHAR:** As I say I'm not 100% sure but I was trying to deduce that if we take R438 000,00 excluding VAT and if you add on VAT it would come to R500 000,00 so the only thing that I could think of, I mean if I'm looking at it is that R500 000,00 is 10% of R5 million which is the CSI that's the only connection that I  
10 could make. However I must add that the CEO of MST had told me that the amount that was paid was not in relation to anything specific but rather because of the overall effort that Maison Holdings had put in introducing them to various things, that is what he told me.

**MS GILL MARCUS:** But if I go back to paragraph 36 of the Budlender Report and to read it in full:

“On 1 April 2017, MST paid Maison Holdings R438 000 plus VAT for  
“work done to date” (the reason stated in an email from MST to the  
PIC). That email also stated that ...”

And it goes back to the question of the minute:

20 “the payment was made to look at improving BEE status and  
motivate and stimulate our partnership to create further sales”.

So the interpretation has to be that this was something that came out of the PIC approach from that response from MST to the PIC and that's the reason why you got the letter and that's April 2017.

**MR EMMANUEL LEDIGA:** Just to ask a question as she is busy there, if you can sort

of remind us what was the CSI projects for just if you can sort of remind us about that?

**MR ROYITH RAJDHAR:** Chair I think the CSI was on the education busses.

**MR EMMANUEL LEDIGA:** What was it sorry, come again?

**MR ROYITH RAJDHAR:** Maths and science, the maths and science ... (intervention)

**MR EMMANUEL LEDIGA:** Busses?

**MR ROYITH RAJDHAR:** Busses ja.

**MR EMMANUEL LEDIGA:** Was it a bus, was it busses okay. Then the next one in terms of timelines you are saying you got the transaction from Ms More and then we got the other story about the airport meeting, which is which, which you know who  
10 actually gave you to look at the transaction, which came first and which is which? I'm confused you know.

**MR ROYITH RAJDHAR:** The first transaction relates to the R21 million loan that was a transaction that Ms More had met somebody who she didn't mention to me at the time and thereafter on the 2<sup>nd</sup> July she had sent through the – the client had sent through documents through to her and she had forwarded it through to me. So that related to the R21 million loan, well okay the initial application was R45 million culminating eventually in a R21 million loan. So that related to that loan. Maybe about two months or so after the conclusion of that transaction and when I mean conclusion I mean in terms of disbursement thereafter we had between R23 million and R37 million request  
20 for a joint venture between Maison Holdings and MST coming to us and that request is from a CSI perspective not from client funds. But ultimately we didn't fund that we had given CSI funds directly to MST to the amount of R5 million.

**MR EMMANUEL LEDIGA:** Just in terms of the date so the Ms More's sort of note came when, came before the airport meeting or after that I just want to sort of clarity on that one? Do you know, can you remember?

**MR ROYITH RAJDHAR:** I think Ms Marcus gave a date somewhere in April 2016 I think ... (intervention)

**MR EMMANUEL LEDIGA:** So the airport before ... (intervention)

**MR ROYITH RAJDHAR:** So this would have been, the R21 million would have been before that.

**MR EMMANUEL LEDIGA:** Ja, ja okay alright just the one thing to follow up on then is that you know given that there are some issues about how transactions come to the PIC in general it looks like you know do you think amongst our recommendations we should include the fact that you know people must note strictly and in writing how they  
10 got transactions and why and those kind of issues?

**MR ROYITH RAJDHAR:** Through you Commissioner, I'd agree to that that where transactions come through perhaps it must always be disclosed the source of the transaction, how did it come to the PIC I think that would be a recommendation.

**CHAIRPERSON:** It seems that's it Mr Rajdhar thank you once again.

**MR ROYITH RAJDHAR:** Thank you.

**CHAIRPERSON:** I'm not going to say you must stay here and not go in case they want you back again but thank you so much.

**MR ROYITH RAJDHAR:** Thank you Chair, in two days I've been here four times Chair.

**CHAIRPERSON:** No I think for today I must say you're excused.

20 **ADV NKAISENG KHOOE:** Thank you Commissioner I think we can take the lunch adjournment if it suits you?

**CHAIRPERSON:** I didn't realise that it was one o'clock already. I think we might have been enjoying the session. Yes we'll adjourn until two o'clock.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**ADV SECHABA MOHAPI:** Thank you, Mr Commissioner. Our next witness is ready to be sworn in.

**CHAIRPERSON:** Your full names, please, ma'am?

**MS BRENDAH MDLULI:** Brendah Buyiswe Mdluli, Mr Commissioner.

**CHAIRPERSON:** Ms Mdluli, do you have any objection to taking the oath?

**MS BRENDAH MDLULI:** No, Mr Commissioner.

**CHAIRPERSON:** No objection?

**MS BRENDAH MDLULI:** No objection.

**CHAIRPERSON:** Do you swear the evidence you are about to give will be the truth,  
10 the whole truth, nothing but the truth?

**MS BRENDAH MDLULI:** Yes, Mr Commissioner.

**CHAIRPERSON:** Raise your right hand and say 'so help me, God'.

**MS BRENDAH MDLULI:** So help me, God.

**CHAIRPERSON:** Thank you. You may be seated.

**MS BRENDAH MDLULI:** Thank you. Okay.

**ADV SECHABA MOHAPI:** Ms Mdluli, you have prepared a statement which – in relation to the evidence you are going to give before the commission. Is that correct?  
Press once, Ms Mdluli.

**MS BRENDAH MDLULI:** Through you, Mr Commissioner. Yes, it is correct.

20 **ADV SECHABA MOHAPI:** Were you compelled to prepare the statement?

**MS BRENDAH MDLULI:** No, I wasn't compelled.

**ADV SECHABA MOHAPI:** And were you compelled by the evidence-leader team to put things in your statement which you did not agree with?

**MS BRENDAH MDLULI:** No, I wasn't, Mr Commissioner.

**ADV SECHABA MOHAPI:** So the evidence you are going to give to the commission

to the VBS transaction. Is that correct?

**MS BRENDAH MDLULI:** That is correct, but it's with relation to the R350-million facility as well as the rights issues.

**ADV SECHABA MOHAPI:** Okay.

**MS BRENDAH MDLULI:** Thank you.

**ADV SECHABA MOHAPI:** Let's proceed with your statement, starting from paragraph 1.

**MS BRENDAH MDLULI:** Thank you.

**ADV SECHABA MOHAPI:** Let me... Mr Mohapi, can you arrange for her mic to be  
10 closer to her, please?

**MS BRENDAH MDLULI:** Thank you. Okay.

"I, Brendah Buyiswe Mdluli, an adult female, confirm that the contents contained in this statement are within my personal knowledge and are, to the best of my knowledge, true and accurate.

By way of my education and work experience I have obtained the following qualifications: A Bachelor of Commerce degree majoring in corporate and investment finance, business information systems and information systems technology from the former University of  
20 KwaZulu Natal. I have a higher diploma in tax law from the University of Johannesburg, a certificate in advanced company law from the University of Witwatersrand and I am an FSCA-certified phase representative. My working career started in 1999 as an administration assistant working for a company called Tekuni Business Development Centre, currently known as Cedar

Etekuni, that assists small businesses with business advisory services. I moved through the ranks to my last position as a Senior Business Development Officer. In 2005 I was appointed as a portfolio assistant at Msobomvu Youth Fund, which is currently known as the National Youth Development Agency, and from – I started as a portfolio assistant and then I was promoted to an investment officer in 2006 and 2010. And then in March 2010 I was appointed as a project manager at the PIC and then from being a project manager I was promoted to an investment associate and have been an Associate Principal since November 2016.”

**CHAIRPERSON:** You started off in the Isibaya Fund?

**MS BRENDAH MDLULI:** Isibaya Fund, correct, Mr Commissioner.

“I have been an employee of the PIC since the 15<sup>th</sup> of March 2010 with uninterrupted service, holding various positions within the Isibaya Fund Impact Investing Division. I am currently an Associate Principal within the Impact Investing Division.

I have been requested by the judicial commission of inquiry into the PIC to make a statement detailing my role, responsibilities and involvement in the PIC investment in the VBS Mutual Bank transaction.”

**CHAIRPERSON:** Just before you get into that, Associate Principal, Impact Investing.

**MS BRENDAH MDLULI:** Correct, Mr ... (intervention)

**CHAIRPERSON:** What’s the nature of your work there?

**MS BRENDAH MDLULI:** The nature of our work involves screening of transactions,

compiling or reviewing appraisal reports, presenting them to a committee and recommending them for approval to a committee.

**ADV SECHABA MOHAPI:** And those are things that you did in relation to VBS. Is that correct?

**MS BRENDAH MDLULI:** That is correct.

**ADV SECHABA MOHAPI:** Okay. Can you, maybe for clarity, give a bit of a pecking order from, say, the analyst up until to the highest point?

**MS BRENDAH MDLULI:** Okay. From... It's the analyst. It's the Investment Associate. It's the Associate Principal. Then it's the Fund Principal.

10 **ADV SECHABA MOHAPI:** The Fund Principal?

**MS BRENDAH MDLULI:** Yes.

**ADV SECHABA MOHAPI:** So you are in the sort of second most powerful position before the Executive Head? Is that correct now?

**MS BRENDAH MDLULI:** I wouldn't say most powerful. I would say ... (intervention)

**ADV SECHABA MOHAPI:** Second I said, second most powerful. Okay.

**MS BRENDAH MDLULI:** I'm not sure about powerful, sir.

**ADV SECHABA MOHAPI:** Oh, okay. Alright. Okay.

**MS BRENDAH MDLULI:** Ja, that's the one that I'm not sure about.

**ADV SECHABA MOHAPI:** Let's leave it there, ja. That's fine. That's fine.

20 **MS BRENDAH MDLULI:** Okay, I'll move on to the outline of my statement.

"My statement covers the following:

1. My involvement in the R350-million revolving credit facility advanced by the PIC to VBS. That is termed 'the facility' in my statement.
2. The review process of the facility.

3. Whether the approval conditions of the facility by the Priority Sector Small and Medium Enterprises Fund Investment Panel included the following provisions:...”

That’s now in the facility agreement. There is clause 3.5, which reads as follows:

“The facility shall be ring-fenced for its purpose as defined in the agreement, as shall be subordinated as against other creditors or borrower creditors.”

And clause 3.6, which reads as follows:

10 “The facility outstanding amount or any portion thereof may be converted into equity at the discretion of the lender at any time before the final repayment date.”

**ADV SECHABA MOHAPI:** While we are there, Ms Mdluli, can you just explain the concept of ringfencing?

**MS BRENDAH MDLULI:** Basically, ringfencing is protecting an asset and make it – you segregate it to be separate from the normal operations of the existing operations of the bank so that you always have control of the money that is going to the – through – for that facility. I don’t know if that is clear.

**ADV SECHABA MOHAPI:** Okay, we can proceed. We will explore that further in your statement.

20 **MS BRENDAH MDLULI:** Okay.

**CHAIRPERSON:** For my purposes, I don’t know much about investing, what is a revolving credit facility?

**MS BRENDAH MDLULI:** A revolving credit facility, it means you have access to the facility and once you’ve used it you can – you will have access to it until it’s top-up (?), but it cannot be more than 350-million. Every time you use it you have to repay to

retain it to the 350-million that it was approved.

**ADV SECHABA MOHAPI:** So the way it works is there's a drawdown on this total amount that you have at your disposal and you have to repay it and that – it always has to stay at the maximum 350.

**MS BRENDAH MDLULI:** 350. Correct.

**ADV SECHABA MOHAPI:** Is that correct?

**MS BRENDAH MDLULI:** Correct.

**ADV SECHABA MOHAPI:** Thanks.

**MS BRENDAH MDLULI:** Okay, can I continue? Okay.

10                    “My involvement in the transaction relating to the facility: I got involved in the transaction relating to the facility on or about March 2014. The facility was approved as a ringfence revolving credit facility to be utilised to fund VBS's contract financing book, which formed part of VBS ... (indistinct) to diversify its product-offering and revenue-generating activities by introducing new products. The application for the facility was first introduced to me – or to myself by Mr Paul Magula, who was then the Associate Principal of Unlisted Debt within Isibaya Fund and he was also an Alternate Director to Mr Nesani on the board of VPS and was also my senior  
20                    in this instant.”

Because at the time of this transaction I was still occupying the position of an investment associate, not Associate Principal.

**ADV SECHABA MOHAPI:** So they say on the VBS board, that is Mr Magula and Mr Nesani, by virtue of the PIC having shares in the bank. Is that correct?

**MS BRENDAH MDLULI:** That is correct, Mr Commissioner.

“As a standard, at the PIC the first internal step in a transaction is to compile a scorpion report. The scorpion report in respect of the facility was compiled by Mr Paul Magula. Given that Mr Magula, although my senior, was, at the time, new in the division he required assistance in understanding the processes and the structure of the reports. My colleague, Ms Siyende – Ms ... Kinsiyende and I assisted him by reviewing the scorpion reports in respect of the facility. On the 13<sup>th</sup> of May 2014 the investment team, which was comprising of Mr Paul Magula, myself, Brendah Mdluli and Ms Kinseyende attended the first portfolio management committee unlisted meeting and presented the scorpion report in respect of the facility. The meeting approved the scorpion report in respect of the facility and authorised the team to proceed with an internal due diligence investigation, meaning that the due diligence process would be conducted by internal PIC personnel. During May 2014 Mr Magula compiled the appraisal report also and he was the person who was responsible for the collection and collation of information and all the interactions with VBS.”

**ADV SECHABA MOHAPI:** Just to stop you there, Ms Mdluli, when he was acting in this capacity and preparing this appraisal report was he already sitting on the VBS board?

**MS BRENDAH MDLULI:** He was an alternate. If I remember correctly he was an alternate director to Mr Nesani.

**ADV SECHABA MOHAPI:** Okay.

**MS BRENDAH MDLULI:** At the time.

**ADV SECHABA MOHAPI:** Okay. Alright.

**MS BRENDAH MDLULI:** Okay.

“During May 2015 Mr Magula compiled the appraisal report.”

Okay.

“Upon conclusion...”

Sorry.

10 “...of the appraisal report Mr Magula requested us to review his appraisal report. Notwithstanding the fact that I only reviewed the appraisal report Mr Magula designated me as a compiler of the report and the appraisal was reported at PMC on the 29<sup>th</sup> of May 2014. Thereafter the transaction was recommended for approval by the PSSME FIP on the 24<sup>th</sup> of June 2014 and on...”

Okay, sorry.

“On the 24<sup>th</sup> of June 2014 the PSSME FIP approved the facility based on the conditions.”

And there were conditions set for the facility, which I would like to make a correction, Commissioner. We referred to point 18 of my statement, not point 14.

**ADV SECHABA MOHAPI:** Okay, that’s paragraph 18?

**MS BRENDAH MDLULI:** Yes.

20 **ADV SECHABA MOHAPI:** Right. Thank you.

**MS BRENDAH MDLULI:** And then:

“On the 1<sup>st</sup> of October 2014 Mr Magula was then appointed as the Acting Chief Risk Officer and moved from the Isibaya Fund to the Risk Division. As he was the investment team lead at the time I was expecting that Mr Magula was going to continue with his role

in finalising this transaction after the PSSME FIP approval but instead he went silent and did not respond to email requests for comments on the legal agreements that were sent through by the then legal representative, which was Mr Ernest Nesani.”

**ADV SECHABA MOHAPI:** Let's proceed to paragraph 14.

**MS BRENDAAH MDLULI:** Okay, paragraph 14, it's in relation to the review process of the facility.

“Clause 18.1 of the revolving credit facility agreement that was signed between the PIC and VBS reads as follows:

10           ‘The facility is subject to review on an annual basis. The lender is to be provided with a copy of the borrower’s audited financial statements, which are to be provided within six months after the borrowers financially end. The PIC Portfolio Management and Valuations Division undertakes the responsibility of facility reviews.’

I was involved in facilitating the flow of information between the PMV Division...”

20           In this instance our – my former colleague, which was Yolanda Makwe (?), who is no longer working for the PIC, and Mr Khaya Zonke, who is currently at the PIC, were the personnel who were leading the facility review process in VBS. For ease of reference I have attached email communication to confirm the information flow facilitation marked as Annexure A.

**ADV SECHABA MOHAPI:** So your Annexure A is constituted of a series of emails and documents which were part of that process. Is that correct?

**MS BRENDAH MDLULI:** Correct, Mr Commissioner.

**MR EMMANUEL LEDIGA:** Okay, let's proceed. Paragraph 16.

**MS BRENDAH MDLULI:** Okay.

10 "I can confirm how... I cannot confirm how the PMV undertakes the review process. The PMV team is best placed to respond to the issue of the review process and compliance therewith as they are the ones who were responsible for the review process of the facility. I can confirm that I did not see the review report and I was not expecting to see the report as it was supposed to be an independent review which is independent to the investment team and it was supposed to be presented at PMC."

**ADV SECHABA MOHAPI:** Just taking a step back, Ms Mdluli, the relationship between the PIC and VBS, since you are the first witness testifying on VBS, as I understand it VBS was a legacy investment. Can you explain that to the commission?

**MS BRENDAH MDLULI:** Sorry? On the legacy issue of ... (indistinct)

**ADV SECHABA MOHAPI:** Yes. So it was an inherited investment?

**MS BRENDAH MDLULI:** Yes, it was.

**ADV SECHABA MOHAPI:** As I understand it.

20 **MS BRENDAH MDLULI:** Okay, I'm trying to find that, the document that talks to that. H'm.

**ADV SECHABA MOHAPI:** Or to put it simply, the PIC had a pre-existing relationship with VBS where it had inherited, basically, this investment.

**MS BRENDAH MDLULI:** Yes. Yes, it had. The Government Pension Fund of Venda was a shareholder in the Venda Building Society and then the PIC became a shareholder of VBS Mutual Bank with the announcement of the Government Employees

Pension Law, which was enacted in 1996, on the first of May 19... And Section 14 of the GEPF Law provided for the discontinuance of the Government Pension Fund of Venda as well as the Government Superannuation Fund of Venda and for these funds to be amalgamated into the Government Employees Pension Fund. So that is how PIC inherited the VBS Mutual Bank transaction. So it was an existing client of the PIC by that enactment.

**CHAIRPERSON:** What are you reading from?

**MS BRENDAH MDLULI:** It's just the ... (intervention)

**CHAIRPERSON:** Information that you've just read into the record, you're reading it  
10 from what?

**MS BRENDAH MDLULI:** It's from my notes that I prepared, Mr Commissioner.

**CHAIRPERSON:** Your own notes that you prepared?

**MS BRENDAH MDLULI:** Yes, Mr Commissioner.

**ADV SECHABA MOHAPI:** Is there perhaps a document which we can source which would have that information and which we can then provide to the commission?

**MS BRENDAH MDLULI:** Yes, I think we can provide it to the commission.

**ADV SECHABA MOHAPI:** I confirm, Mr Commissioner, that we will provide that document that gives the background of the relationship between the PIC and the bank.

**CHAIRPERSON:** I'll appreciate that. I know I also read it somewhere but I can't  
20 remember where. Alright?

**ADV SECHABA MOHAPI:** But we'll provide it to the commission.

**MS BRENDAH MDLULI:** Okay. And then the approval conditions of this facility.

“The facility was approved on a ringfence basis, as mentioned, to ensure that it was operated separately from other product offerings by VBS. The conditions of the approval of the facility by PMC and

PSSME FIP did not include the following revised or amended underlined conditions, which were included in the facility agreement post the approval.”

**ADV SECHABA MOHAPI:** So just to be clear, the parts in your statement which are to follow which have been underlined are things which were inserted post approval?

**MS BRENDAAH MDLULI:** Correct, Mr Commissioner.

**ADV SECHABA MOHAPI:** Okay. We can proceed. And then when you just mentioned the parts which are underlined you can just mention that these are things which are now underlined, for the record.

10 **MS BRENDAAH MDLULI:** Okay. Okay, I'll do that. The clause 3.5, which reads as follows:

“The facility shall be ringfenced for its purpose as defined in the agreement as...”

The part that is underlined is the part that was not part of the approval.

“...as such shall be subordinated as against other borrower creditors.”

And the second clause was clause 3.6, which reads as follows. The whole clause was not part of the approval.

20

“The facility outstanding amount or any portion thereof may be converted into equity at the discretion of the lender of at any time before the final repayment date and the legal department personnel at the time who settled the draft facility agreement would be best placed to explain the rationale for the inclusion of the above clauses.”

**ADV SECHABA MOHAPI:** Can we just spend a bit – a moment on these clauses,

Ms Mdluli? So the first part of clause 3.5 talks about ringfencing the facility.

**MS BRENDAH MDLULI:** Correct.

**ADV SECHABA MOHAPI:** Then the second inserted part talks about ‘as such shall be subordinated as against other borrower creditors’. That’s a contradiction in terms, isn’t it?

**MS BRENDAH MDLULI:** According to my understanding I don’t think you can ringfence a facility and then – and at the same time subordinate it because it’s supposed to operate separate from any other creditors or any other operations of the bank.

10 **ADV SECHABA MOHAPI:** So, with what has happened to VBS, the idea with ringfencing was to protect the loan, the facility given by the PIC, against VBS’s other creditors?

**MS BRENDAH MDLULI:** H’m. That’s correct.

**ADV SECHABA MOHAPI:** That... The fact that now it’s been subordinated has deprived the PIC of that protection, hasn’t it?

**MS BRENDAH MDLULI:** That is correct, Mr Commissioner.

**ADV SECHABA MOHAPI:** And also, in relation to clause 3.6, to convert the facility into shares is also a contradiction in terms of the ringfencing, isn’t it?

**MS BRENDAH MDLULI:** And that was not the intent of the facility in the beginning.

20 Even at approval no one talked about the facility being converted into equity.

**ADV SECHABA MOHAPI:** Thank you, Ms Mdluli. Let’s proceed. Paragraph... Just to double check. So 6(a) – 6.3(a) is that – so the problem there is that you have done the – you know, is the subordination part. The second one, it looks like it reads the same kind of wording. Ja? Is it correct? But it was not supposed to be convertible.

**MS BRENDAH MDLULI:** Yes.

**ADV SECHABA MOHAPI:** And this point wasn't in the shareholders' – in the agreements. Is that correct?

**MS BRENDAH MDLULI:** This point was in the facility agreement but it was not part of the approval conditions that were approved by the Fund Investment Panel.

**ADV SECHABA MOHAPI:** Yes. Which part is this now? The 6.3(b)?

**MS BRENDAH MDLULI:** That is... Okay. It's 18 and it's (b) of my statement, but the clause is clause 3.6 in the facility agreement.

**ADV SECHABA MOHAPI:** Okay. Alright. Okay. Alright.

**MS BRENDAH MDLULI:** Okay.

10                   “On the 13<sup>th</sup> of April in 2015 an email addressed to myself and Mr Magula was received from Mr Nesani requesting us to comment on the facility agreement, which was attached to the email, before it could be issued for signatures. I then printed that version of the document to read through and wrote down my comments on the printed hardcopy version. This version of the facility agreement did not contain the two clauses mentioned above, which is clause 3.5 and 3.6. For ease of reference a copy of the emails have been provided also, to clarify that statement.”

**ADV SECHABA MOHAPI:** Sorry, just for clarity, Ms Mdluli, when we refer to clause  
20 3.5 and 3.6 we're referring to those clauses in the facility agreement?

**MS BRENDAH MDLULI:** Correct, Mr Commissioner.

**ADV SECHABA MOHAPI:** Okay, thank you.

**MS BRENDAH MDLULI:** And then:

“On the 23<sup>rd</sup> of April 2015 an email was received from Mr Nesani, again addressed to myself and Mr Magula, with two attachments

now, which were the facility agreement and a cession-of-underlying-contracts agreement. He indicated that these documents were execution versions and requested us to comment or recommend changes before signatures. On receipt of this email I realised that I had not sent my comments earlier as he had requested and I had already written in my hardcopy printed agreement the comments that I wanted – or the changes that I was recommending to the agreement. And then, on the afternoon on the same day, which is the 23<sup>rd</sup> of April 2015, I sent a response, emailed to Mr Nesani, by working through my handwritten comments on the hardcopy printed document that I had printed. I was under the impression that the document that I had printed was the same document that I received on the 13<sup>th</sup> of April 2015 as Mr Nesani did not mention that there were any material additions or changes to the first document that he had sent or that we received. The document that I emailed back to Mr Nesani with my comments had clauses 3.5 and 3.6. I think I might have missed the insertion as I was working from the printed hardcopy document without these clauses. A copy of the email is also provided for ease of reference.”

**ADV SECHABA MOHAPI:** Just to interrupt you there, Ms Mdluli. So if you can just take the commission through the process of putting together agreements in the PIC? There would have been an investment approval process?

**MS BRENDAH MDLULI:** Correct.

**ADV SECHABA MOHAPI:** You would have resolutions for approving the investment?

**MS BRENDAH MDLULI:** That's correct.

**ADV SECHABA MOHAPI:** And those have to be incorporated in an agreement and it's the legal division's responsibility to incorporate those into the agreement?

**MS BRENDAH MDLULI:** That's correct, Mr Commissioner.

**ADV SECHABA MOHAPI:** Okay, thank you.

**CHAIRPERSON:** (Indistinct). Reference is made to a copy of an email provided for ease of reference. Where is it? Is it one of the annexures? There's another one before this, another copy of an email and there's no annexure reference for it.

**ADV SECHABA MOHAPI:** The emails have been provided to the commission  
10 separately to the annexures, Mr Commissioner. They are... We thought it best to  
provide them as they are electronically, but they have been provided to the commission  
and will be made available.

**MS BRENDAH MDLULI:** Okay.

20 "I was not aware and cannot confirm when the clauses 3.5 and 3.6  
were added to the agreement until at a very later stage during the  
announcement of the decision to place VBS under curatorship in  
March 2018, and an additional condition, which was part of the  
resolution from PSSME FIP, was that the facility drawn down  
would be such that R200-million would be drawn initially and the  
R150-million to be made available in line with the performance. I  
can confirm that this condition was not included in the facility  
agreement. I cannot confirm that I was not aware of this but I  
assumed that as the disbursement was done in tranches this  
condition was fulfilled."

**MS GILL MARCUS:** Could I ask you, given the amount of documentation flow and

different versions, does the PIC have a methodology by which all of you follow to know which version you're on and who has seen and signed off and approved which version so that you know you're on version seven and XYZ have all seen it and ticked yes, this is, so we're all working off the same page and I'm not on version one and you're on version three and somebody else is on version seven? Do you have a methodology that is followed in all the departments, including your own, that allows the tracking of which version of what document and who has seen it as a matter of course?

**MS BRENDAH MDLULI:** Through you, Mr Commissioner, I don't think we have a system or a process that talks to that, but the person who is in control is the one who  
10 will either be sending you information or sending you the documents. They will have the original document and they will have all the review documents as well.

**MS GILL MARCUS:** Can we just look at that as going forward? Because if this is applicable, not applicable here, elsewhere in the organisation, otherwise you don't know where you are in terms of what is being finally agreed. People will have a different understanding of what has been finally agreed if you're not working off the same document – or the same version of document.

**ADV SECHABA MOHAPI:** But just in relation to the commission's question on this aspect, it would have been Mr Nesani's responsibility to ensure that the finally-adopted document has all of the relevant approvals and that it's the correct document that would  
20 be executed upon?

**MS BRENDAH MDLULI:** That is correct, Mr Commissioner. The legal representative is the one who is the ultimate responsible for – to making sure that whatever is in the legal agreement is as per the resolution or as per the approval by the Fund Investment Panel or the committee that approved the transaction.

And then paragraph 25 is in relation to the process that was followed which resulted in

the PIC participating in the second and the third rights issue simultaneously.

“On the 8<sup>th</sup> May 2017 I received an email from Mr Phillip Truter who was the CFO of VBS, addressed by my colleague Ms Lufuno Netshikweta and I. The email contained a notice to the shareholders of VBS dated the 28<sup>th</sup> April 2017 stating that the board of directors of VBS had resolved to extend the deadline of the second rights issue up to the 31<sup>st</sup> May 2017. The initial notice of the second rights issues was not sent to me and to the best of my knowledge was also not sent to anyone at the PIC. The initial notice of the second rights issue was alleged they send to the shareholders around August 2016.

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As the initial notice was not sent to the PIC, the PIC did not participate in the rights issues of August 2016 and this had the effect of diluting PIC's shareholding in VBS from 25,26% to 11,96%. I contacted Mr Truter immediately to understand the contents of the second rights issue notice that was contained in the email of the 8<sup>th</sup> May 2017. As there were no records of receipts of the initial notice of the rights issue by the PIC as a shareholder. I also sent him emails to that effect. I started in the emails that the PIC should be given a fair chance to also undergo the internal processes of making a decision of whether they are participating in the rights issue or not.

20

The PIC team which was myself, Brenda Mdluli, Lufuno Netshikweta, Khaya Zonke and Yongama Melaphi of PMV, requested a meeting with the VBS CEO which was Mr Andile Ramavungha and the Chairman of the board of VBS which was Mr Tshifiwa Matodzi to discuss the participation of PIC in the second extended and the third rights issue.

On the 26<sup>th</sup> May 2017 VBS had board meeting at the Indaba Hotel in

Fourways. During the break of that board meeting the PIC team held a meeting with the VBS CEP, Chairman of the board and the CFO. The PIC team advised the colleagues of the PIC standpoint with regards to the unfairness of the process that would lead or led to the PIC shareholding dilution.”

**ADV SECHABA MOHAPI:** Just before we move on Ms Mdluli. Was the PIC – was this team constituted of yourself, Lufuno, Khaya, Yongama, was it invited to the VBS board meeting?

**MS BRENDA MDLULI:** Through you Mr Commissioner. We were not invited. We  
10 have been trying to get meetings with them and they were – they seemed to be busy at the time until they told us that they going to have a board meeting and we insisted that we must meet them so that we will get to make a decision on what needs to be done about the fact that PIC was not given fair notice to participate in the rights issue.

**MS GILL MARCUS:** At this time were the two PIC representatives, Mr Magula and Mr Nesani on the board?

**MS BRENDA MDLULI:** Yes, yes, through you Mr Commissioner. Yes they were part of the board.

**MS GILL MARCUS:** So although they were board members and they would have then been aware that the PIC and the PIC had not been informed as board members  
20 because they should have been aware of what the rights issue were and what was happening, is that correct?

**MS BRENDA MDLULI:** They would have been involved. Through you Mr Commissioner. They would have been or they would have known about that instance.

**ADV SECHABA MOHAPI:** Okay let's proceed paragraph 28.

**MS BRENDA MDLULI:** Okay.

“Subsequent to numerous discussions and email correspondence it was then agree that VBS will give the PIC an extension to exercise both rights issues in respect of the initial notice and the extended notice at the same time. This resulted in the PIC approving via round robin to participate in the second which was the initial and the third extended rights issue at R90 million and the original shareholding of the PIC at VBS was restored to 25,26%. I have attached correspondence between the PIC represented by myself and Mr Truter on this matter for ease of reference marked as Annexure B.”

**ADV SECHABA MOHAPI:** One second. When referring to Annexure B that’s a series  
10 of communication emails and documents exchanged between yourself and the VBS CEF or Mr Truter is that correct?

**MS BRENDA MDLULI:** Through you Mr Commissioner, yes that is correct.

**ADV SECHABA MOHAPI:** Thank you, let’s proceed paragraph 31.

**MS BRENDA MDLULI:** Okay Vele Investments (Pty) Ltd shareholding in VBS.

“In the course of finalising the report to be approved by PIC on the participation in the rights issue discussed in paragraph 25 to 30 above, it came to the attention of the team that there was a new shareholder namely Vele Investment which was initially not known that had suddenly held 53,20% shares in VBS. Ms Lufuno Netshikweta, Ms Kentse Yende and I  
20 enquired from VBS about this shareholder and we enquired or asked questions through Mr Phillip Truter who was the then CFO.”

**MS GILL MARCUS:** And this shareholding was - held by Vele was prior to the rights issues?

**MS BRENDA MDLULI:** That was prior to us exercising our rights issue ...[intervenes].

**MS GILL MARCUS:** Prior to you but the rights issues that they may have ...[indistinct]

started from the previous rights issue that you were not included in?

**MS BRENDA MDLULI:** That is correct.

“Mr Truter informed us that this shareholder was parts of the other shareholders which is the other in – because there is a shareholding which is – think it is various organisation and individuals which held about 49% of VBS. So when we enquired he told us that this shareholder was part of those other and the various – that participated in the second rights issue when the major shareholders which were the PIC and Dyambeu Investments did not participate.

10 My understanding of the rights issue is that it is an issue of shares offered at a special or discounted price by a company to existing shareholders in proportion to their current shareholding or shares. Hence the reason that the team had to understand the strange appearance of the new shareholder.”

**ADV SECHABA MOHAPI:** Now just going back to this strange new shareholder Vele. It's public record that it was one of the biggest recipients of the so called ill gotten gains from VBS, is that correct? Vele Investments was one of the biggest recipients of ill gotten gains from VBS in the ...[intervenes].

**MS BRENDA MDLULI:** I think according to the great bank heist reports by Advocate Terry Mtau that's where that information is coming out.

20 **MS GILL MARCUS:** And do we have more information on exactly who Vele Investments is and the ...[intervenes].

**ADV SECHABA MOHAPI:** We can also make that information available to the Commission Mr Commissioner.

**MS GILL MARCUS:** Do you have it readily to hand or not? No?

**ADV SECHABA MOHAPI:** Sorry pardon me?

**MS GILL MARCUS**: [Indistinct] is or who exactly Vele Investments are, who the people involved in, do you have that information easily to hand or is it something that you would need time to provide to the Commission?

**ADV SECHABA MOHAPI**: It is available. It is information that we have available, Mr Commissioner through you and we can make it available to the commission.

**MS GILL MARCUS**: I am asking though if it's to hand because you would read it into the record now. If it's not to hand then you need to give it to us later, that's fine.

**ADV SECHABA MOHAPI**: We'll do so. Mr Commissioner that concludes Ms Mdluli's evidence. Our next witness is ready to testify.

10 **COMMISSIONER**: Just a few questions.

**MS GILL MARCUS**: Given the events that you indicate occurred relating to the rights issues and your concerns around what was happening was there a discussion between yourselves as the PIC and the two board members who were there at the behest of the PIC about what was actually going on about and what was happening at VBS?

**MS BRENDA MDLULI**: Through you Mr Commissioner. The VBS representatives they would usually tell us that they are board members they are not PIC representatives in terms of like a shareholder representative when it comes to board matters. So those roles should be separated.

20 **MS GILL MARCUS**: I accept that because they obviously have a fiduciary duty to the board that they serve on but at the same time there may well be a question that says look, you not happy. Whether it's through the Chair, through the CEO, this is what's going on.

Because you know if your investment is diluted without you knowing, without the requisite checks and balances in place there is a responsibility between the PIC and that entity. Whether it's VBS or anybody else to say what is happening here.

Ja so did any discussion take place in the manner other than what you've indicated here about following your rights or having the rights issue and being able to look at that. But the question for me is why did that happen in the first place and what - would that have triggered and interaction from the PIC with VBS to say what is going on here and why?

**MS BRENDA MDLULI:** The interaction with the client after opposed investment is usually between the client and our PMV or post monitoring division. So they are the ones who should keep contacts with the clients as well as the investment team who was involved in approving the transaction.

10 So in this instance this is why the team had to take initiative and make sure that this thing was done as was initially intended ...[indistinct].

**MS GILL MARCUS:** And did you interact with the post investment team as well to express concerns and ask them to look at things?

**MS BRENDA MDLULI:** Through you Commissioner. Yes we did. Hence we had Mr Khaya Zonke and Yongama Melaphi of PMV during that meeting as well.

**ADV SECHABA MOHAPI:** Is it correct to say that they also didn't have joy with VBS, the people in PMV who were responsible for monitoring the investment?

**MS BRENDA MDLULI:** Through you Mr Commissioner. I think there will be better place to respond to that question. But everytime when they had issues with receiving  
20 information they would ask for assistance from the investment team which was majorly myself and then I would call Mr Truter and send him emails and remind him that he has to submit documentation to our PMV division.

**COMMISSIONER:** Thank you. It seems like the questions have run dry.

**ADV SECHABA MOHAPI:** In terms of the changes that were put into the final agreement you know, was that found out after the collapse of the bank and there was

something done about it?

**MS BRENDA MDLULI:** Through you Mr Commissioner. I am the one who got aware of it at that time because the person who was responsible for the agreements or who was making sure that the agreements were signed is the legal representative or the legal division was responsible for making sure that the agreements are signed.

**ADV SECHABA MOHAPI:** Yes once you found out what happened? Was something done about it or you just found out and kept quiet about it?

**MR EMANUEL LEDIGA:** Through you Mr Commissioner. It was not only me that found out about it. I think it was something that was discussed at the PIC. PMV  
10 division also knew about it and in this instance – I am not sure of the processes that were followed to resolve or attend to that issue. I cannot talk to it because I don't know.

**ADV SECHABA MOHAPI:** Just to place it on record Mr Commissioner. We intend to call a person from the legal division to speak to the whole question of these inserted clauses into the agreement.

**COMMISSIONER:** Yes thank you. Ms Mdluli thank you very much, thanks for your time and thank you for making yourself available to come and testify before the Commission. It has helped us a lot.

**MS BRENDA MDLULI:** Thank you.

**COMMISSIONER:** Thank you.

20 **MS BRENDA MDLULI:** Thank you Mr Commissioner.

**COMMISSIONER:** Your full names are?

**MR SIMON NKOANE:** Sello Simon Nkoane.

**COMMISSIONER:** Do you have any objection in taking the oath Mr Nkoane?

**MR SIMON NKOANE:** No Commissioner.

**COMMISSIONER**: Do you swear the evidence your about to give will be the truth, the whole truth and nothing but the truth, raise your right hand and say so help me God.

**MR SIMON NKOANE**: So help me God.

**COMMISSIONER**: Thank you very much, you may be seated.

**ADV SECHABA MOHAPI**: Mr Nkoane you've also prepared a statement in relation to the evidence you about to give to the Commission is that correct?

**MR SIMON NKOANE**: Yes Commissioner.

**ADV SECHABA MOHAPI**: And you were not compelled to prepare this statement or to give this statement?

10 **MR SIMON NKOANE**: No.

**ADV SECHABA MOHAPI**: Nor were you compelled to insert things in your statement with which you didn't agree?

**MR SIMON NKOANE**: No Commissioner.

**ADV SECHABA MOHAPI**: Thank you. Let's start from paragraph 1.1 of your statement.

**MR SIMON NKOANE**: Thank you Commissioner.

20 "I Sello Simon Nkoane a South African National confirm that I reside at Pretoria, South Africa and further confirm that the contents contained in this statement are true and accurate. I was employed by the Public Investment Corporations on the 2<sup>nd</sup> January 2011 and have been in its employ since then with uninterrupted service holding the position of operations and investment support manager. Which position I hold even today reporting directly to the Executive Head, Investment Management.

I've been requested by the judicial commission on inquiry into allegation of impropriety regarding the PIC judicial commission of enquiry investigators to

submit a statement which details the role and responsibilities of investment management operations – IM Operations with regard to the procurement process as it relates to the due diligence process within the listed investment and also in relation to the role of IM Operations with regard to the disbursement of the 350 million revolving credit facility approved for VBS Mutual Bank which I will refer to as VBS.

The following section deals with the role of the investment management operations and the role of investment management operations with regard to the VBS.

10 Investment Management Division

The division falls within the investment management division or the unit falls within the division called investment management division of the PIC. With its core role being to provide efficient and effective operational investment support to the investment process and teams. The investment management operation is lead by myself and has a staff compliment of 6 compromising of the following positions.

- 2 fund administrators occupied by gentlemen called Gabriel Nkale and Tshepiso Ntja.
- Morufe Masemola a divisional administrator and additional three divisional administrators with the names Francina Medupe, Mponeng Molai and Kgosi Tselapedi as a websit administrator.

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They key responsibilities of investment operations includes among other things, assisting and implementing appropriate IT systems to support the investment process. Assist also to develop and implement appropriate

processes, policies and frameworks to ensure seamless execution of unlisted investment activities.

The IM operation plays a role across various aspect of the investment process. Including but not limited to funding application process, due diligence through leading the appointment of service providers to conduct due diligence or any other assignment. Handover process, disbursement process, whether initial or subsequent disbursement. On the corporate side the IM operations coordinate and assist and liaise with internal and external auditors in regard to internal external audit work within the investment divisions.

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The IM operation contributes and provides inputs to various monthly and quarterly reports prepared by various divisions within the PIC. Below is a key investment and other processes where IM operations is involved:

- Unlisted Investment Procurement
- Unlisted Investment Disbursement Process
- Domestic and International Travel Process and
- Management Fees.”

I'll move to paragraph 4 which deals with the unlisted investment procurement.

**ADV SECHABA MOHAPI:** Before moving on Mr Nkoane. Can you just explain these roles that IM Operations plays, unlisted investment procurement, what does that entail?

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**MR SIMON NKOANE:** Through you Commissioner. So once a transaction is approved to go to DD by PMC1 then the investment team will then assess whether the due diligence would be executed by either internal – using internal capacity or appointing external advisors.

So how we come into – how we assist in that process is that the process of appointing the external consultant, we lead that process. We coordinate that process. That would include working together with the deal team to put together the scope for the DD and also once the scope is finalised we'll also run with the process of issuing the request for proposal to the various service providers which we'd source from the approved database.

Obviously from submission of the proposals from the respective service providers we'll then coordinate the process of evaluation of the proposals from the service providers. Which the deal team would then focus on the technical side of it. If for example it's a  
10 technical DD they will then assess or evaluate the proposal from a technical point of view and the from our side we'll then look at the other side of it which is mainly administrative part of it including the evaluation in terms of price and of course BEE.

Then we'll then run with the process of the recommended service providers for appointment or approval to appoint by the delegated official. In terms of the disbursement process, our role is that all the initial disbursements following the handover meeting, we will run with the process or put it together a disbursement file.

In my statement I actually articulate exactly what is contained in that disbursement file which I will cover the rest of our role as I go through my statement.

20 "The investment mandate concluded between the PIC and its clients makes provisions for PIC to appoint third party advisors and costs associated with such appointment of third parties shall be for the account of the client. The client in this case I am referring to – in our case for unlisted investment I am referring to the GPF, UIF and CC. Amongst other things the advisors can be appointed to conduct due diligence on the transaction on behalf of the PIC,

particularly where the PIC does not have the necessary internal capacity to perform such due diligence.

The appointment of such third parties follows and is governed by an approved assets under management procurement policy. It must be noted that the specific divisions within this – apologies Commissioner. It must be noted that specific divisions which this policy is applicable is the Private Equity and SIPS and the Impact Investing and Funds of Funds and any other division that appoints service providers where costs are incurred on behalf of the clients. The unlisted properties division has its own procurement policy and process and accordingly not dealt with in this statement.

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It must be emphasized that when the PIC procures on behalf of its client who neither are governed by the PFMA nor are organs of State or maybe subject to regulatory exemptions or exclusions or whose investment activities are excluded or exempted. It is important to note that the provisions imposed by such government procurement legislation are not applicable to such clients.

Notwithstanding such exemptions the unlisted investment division endeavours to ensure that this policy espouses the principal embedded in the government procurement legislation, such as fairness, equity, transparency, competitiveness, value for money and risk management. The

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process outlined below must be read with the unlisted investment delegation of authority, the AuM Procurement Policy and the procedure manual for the unlisted investments. The PIC Supply Chain Management unit are required to confirm for any AuM Procurement undertaken on behalf of the PIC clients that the approved process have been complied with.

Procurement Process

Once the Portfolio Management Committee, unlisted investment which is PMC1 has approved for a transaction to go to DD the investment team, environmental, social and governance team which is referred to ESG, legal team and the risk team who must decide which component of the due diligence will be outsourced and which component will be executed using internal resources.

In case where the decision is to outsource, this process is led and coordinated by investment management operations team. Except in case of legal due diligence which is coordinated and led by the legal unit directly. It must be noted that the same policy referred to above is applicable to the procurement activities by the legal unit. This arrangement I found at the PIC when I joined. As with other AuM Procurement, IM Operations was and is responsible to monitor compliance with the provisions of the AuM Policy and processes and further coordinate and oversee the procurement process.

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I was not sure of the rational of this separate arrangement and don't recall what explanation was provided when I raised this matter but was comforted by the fact that the PIC Supply Chain Management Unit signed off to confirm that all due processes have been complied with all legal unit recommendation to appoint legal firms for due diligence and or drafting of legal agreements. The respective teams assisted by the IM Operations team will prepare request for proposal – RFP and such RFP will include amongst other things at a minimum:

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- Background of the transaction
- The scope of the due diligence
- Evaluation criteria

- Timelines for submission of proposals
- And other administrative requirements

Service providers with appropriate and relevant experience will be selected from an approved database. The database was established some three years ago and is managed and maintained by the IM Operations. In terms of the AuM Procurement Policy. Potential service providers can apply to be listed in the database at any given time by completing an application form. Once the application form is completed and the required documents attached such will be submitted to IM Operations. An administrator within the IM

10 Operations will prepare a memo for submission to myself and after review recommend to the Executive Head Investment Management, Ms Rubina Solomon who will approve the service provider listing.

Once the submission is approved the service provider will be listed in the database. If there are no sufficient and or experienced service providers on the approved database a request for approval to approach service providers outside the database will be prepared and such request will be approved in line with the delegation of authority. Once the RFP is completed and the required number of service providers have been identified whether through the approved database or outside the database the RFP will be issued by the

20 IM Operations team to the selected service provider.

The RFP will be accompanied by the declaration of interest and none disclosure agreement to be completed by the service providers approached. Depending on the requirements of the RFP the potential service providers will submit proposals in electronic form and or hard copies to IM Operations team within the required timelines as stated in the RFP. Once received the

IM Operations team will convene an evaluations task team and the proposal will be evaluated in line with the AuM Procurement Policy and the RFP criteria.

All members of the task team are required to complete declaration of interest forms before they can participate in the evaluation process. Following the evaluation process the service provider with the highest score will be recommended for appointment. The memorandum recommending the service provider with the highest score will be prepared by IM Operations. The memo must be accompanied by relevant documents to support the recommendation. The approval of the recommended services will be done in line with the delegation of authority.

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Once the approval is obtained the IM Operations shall notify the successful service provider formally and also unsuccessful service providers will be notified. The IM Operations shall lead and coordinate the drafting and or review of the engagement letter between the PIC and the successful service provider. The engagement letter must also be reviewed by legal and signed in line with the delegation of authority. Once an engagement letter is signed a kickoff meeting which is led by the investment team is scheduled by the operations team with the appointed service provider for a briefing on the proposed transaction and the scope of the DD.

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Once the appointed service provider has completed the scope of work as outlined in the RFP the service provider will prepare a due diligence report for submission to the investment team. The team will engage with the service provider until the final report is submitted. Depending on the terms of the engagement letter the service provider when submitting the final report, meaning the DD report will include the invoice for the work done for

payment purposes. The IM Operations will facilitate the approval of the invoice for payment purposes and submit accordingly approved invoice to finance for payment. Once paid finance will then submit a copy of the proof of payment to IM Operations team.

**MR SELLO NOKOANE:** We move now onto the disbursement process.

**MR EMMANUEL LEDIGA:** Question. Looking at this procurement process, especially 4.9. You know, I wonder in general. When you put people on a data base. Just, you know, a few questions there is that, how do you put them, first thing?

Second point is, how do you choose amongst them, generally? You know, and especially if someone has done work for the PIC for a while, do you drop them and choose the others? How does this whole data base process work?

And if people are not on that data base, you say it was done about three years ago, how do they get onto that data base? So, just those broad general question on how that database work.

**MR SELLO NOKOANE:** So, as I have said, Commissioner that the database was established some three years ago and as part of the policy – the procurement policy, there is a provision in the policy which allows service providers who want to list on the data base, to apply for listing on the data base.

The process of listing is that there is a form are they required to complete. That form has a number of things in it. For example, we require that you provide us with the type of services that you provide.

The directors of the company, the shareholders of the company. So, there is a number of the things that we would require from a service provider who wants to be listed on the data base.

Now in terms of the policy, any person who wants to list on the database can walk in

and request an application form to complete, in order to be listed on the data base. Further, Commissioner through you, in terms of our policy, we have got a rotation guideline and the reason why we have this rotation guidelines, is to make sure that we do not have on service provider being appointed often, because you do have...

It is one of the risk that we are facing. To say, you know, the one service provider can be appointed on a number of transactions. Immediately that would then deny other service providers who are listed on the data base being appointed.

Hence, we have then developed that guideline in the policy in terms of rotation, so that we can give other service providers who are listed on the database the opportunity to  
10 be also appointed to do work for PIC. The...[intervenes].

**MS GILL MARCUS:** Sorry, just on that point. A question I would ask is, is that obligatory to follow that process, because does it not disadvantage people who actually do perform well? So, that if you have got a service provider who actually does everything that is expected, gears up to be able to ensure they deliver exactly what is required, but then you drop them because of rotation and you might get somebody who does not perform as well, but they fulfilling your rotation requirements, not your skill competence expertise requirement.

I would have hoped it is not a mechanical rotation but looking for opportunities. Certainly, there should be opportunities for a range of service providers to participate,  
20 but I would be a bit concerned if it was: Okay, you have done brilliantly. You are our best service provider. But your rotation time has come up. Off you go. We have put in somebody who cannot do the job.

Or even who can do the job. But you actually then have a situation where service providers have to grow and reduce and grow and reduce and therefore, you actually destroy the capacity over time.

So, I am just really asking. Not that one does not need to find ways in which you create greater opportunity, but whether it is simply a mechanical question. You have done your turn now. It is somebody else's. Thank you.

**MR SELLO NOKOANE**: Thank you, Commissioner. The rotation, Commissioner is not to – it is not intended to disadvantage those service providers who are performing. One of the things that we do is that, for every due diligent. If you appoint a service provider to do a due diligence on a particular transaction, once the work is completed, one of the things what we do, we, as operations, we engaged with the investment team.

Because post appointment, the service provider will be working with the investment  
10 team, just to assess the performance of that service provider and where, for example, the view of the deal team is that, that particular service provider has done a bad job, we do not stop there.

What we also do, is that we convene a meeting with the service provider because sometimes if we do not do that, you are only hearing one side of the story and for whatever reason, they could be saying that the service provider is not performing.

But what we do is, that we further engage with the service providers. Just to also put the facts on the table based on what the deal team is saying. So, that we can also hear the side of the service provider as to what the... So, that we give both parties a chance, so that both parties their views on the table.

20 And from that discussing, through your Commissioner, we would then obviously come up with a plan in terms of how then do we assist the service provider, if it is something that we are able to do, in terms of that service provider, being able to perform going forward.

But we do give an opportunity to these service providers to say their side of their, so that we have, you know, both sides of the story and to make sure that a service

provider is not badly(?), because somebody is saying he is not performing.

In terms of the rotation, as I have said through your Commissioner, it is not intended to disadvantage those service providers that are performing, but those who are not performing, they are flagged on our data base.

And they are flagged for example, we will put them on hold, if it is something that is continuous. The non-performance is continuous or there is no improvements that we see from the service provider.

**MR EMMANUEL LEDIGA**: Is it mechanically applied or is there space and leverage to reappoint and so on?

10 **MR SELLO NOKOANE**: Yes. Yes, there is that space to reappoint.

**CHAIRPERSON**: I think you were still trying to continue. So, I think continue, because I am interested in filling up the points here on the issue.

**MR SELLO NOKOANE**: Oh, on the issue of the...[intervenes].

**CHAIRPERSON**: Ja, database.

**MR SELLO NOKOANE**: Oh, ja. Okay.

**CHAIRPERSON**: Like it was and all of that.

**MR SELLO NOKOANE**: Ja. So, as I have said, the database. Anyone can walk in and apply to be listed on the data base and obviously, as I have said, there is a form that is completed which requires a number of things and once we are happy that the  
20 service provider meets the requirements, that service provider will go through the internal process for appointment.

**CHAIRPERSON**: Then a questions. So, if you got a own transactions. Let us say, you got, sort of 50, 60 legal firms. I mean, there are many legal firms in the country. In Joburg in particular. Or you have got advisors, transaction. You know, advisors. There are many also. From big ones to boutiques. Can it happen that you are on the data

base for three or five years without being called to do some work?

**MR SELLO NOKOANE**: I do not think it is possible because one of the things that we do is that when we select service providers, part of the process of trying to rotate is that when we select service providers, because our data base is structured in a way that you are able to say, this service provider provide for example services on technical DD or financial DD.

So, if for example there are a piece(?) for a financial DD, right. So, we will then select from the data base all the service providers that provides for example financial DD. Part of our policy is that the minimum requirements in terms of how many people you  
10 can approach, it is a minimum of seven service providers.

So, you cannot select below seven. Unless, of course, in the data base, we have got only, let us say, six service providers that provides for example a technical DD mining. But you when you select service providers from the data base, you have got to make sure that you select first of all the service provider that provides financial...

Which in this case, would be quite a lot of them that does service of financial DD. Now, as part of the whole process of selecting this, we will say and it is part of trying to rotate, is that we will then obviously make sure that service providers that were not approach in the previous transactions for example, they are included in that list of service providers that we will approach.

20 In some cases you will find that we approach 15 service providers, just to perform a financial DD on a transaction. Just to make sure, you know, people are given opportunities, to make sure that they submit proposal to the PIC.

We had in previous instances where we had service provider calling and saying: You know, I have been listed on the PIC data base and I have never been approached.

And part of making sure that you do not have those kind of instance is that we make

sure that in terms of the service provider that we approach, we make sure it is a big number. It is not three or four service providers and those who were not approached in the previous transactions are included in the other piece going forward.

**CHAIRPERSON:** And they can complain if they are not happy.

**MR SELLO NOKOANE:** They can complain.

**CHAIRPERSON:** Ja, they can complain if they are not happy.

**MR SELLO NOKOANE:** Yes, they can complain.

**CHAIRPERSON:** Okay. Then the one question I wanted to ask you is and I think it has come up here, but it will be probably be dealt with in the future. Do you have advisors  
10 that are sort of one person said they got a high hit rate with the PIC? You know, people who advise the PIC on transactions. Say, valuations or whatever. That they have got a so-called high hit rate and how does that come about? Did you know about it or is it part of your work?

**MR SELLO NOKOANE:** I, through you, Commissioner. I take it when you say high hit rate, you mean they often quite get work from PIC. That is if I understand you through you, Commissioner.

**CHAIRPERSON:** Yes.

**MR SELLO NOKOANE:** I mean, we have instances where the deal team for example will prefer audit firms. You know, you find instances where they prefer audit firms for  
20 financial DD. But, of course, just to make sure that everyone gets an equal opportunity. If, for example, in this case, for example, if E & Y was appointed to do work on a particular transaction, as part of this process of making sure that everyone is given an equal opportunity, we are not going to include E & Y in the other things going forward. But yes, you know, we do have or previously we did have advisors where it is like you see this person working on this transaction. Tomorrow, PMC approves another

transaction. You see the same person. But as part of making sure in the last two, three years just to make sure everyone is given equal opportunity.

And also, hence, we had to put together this police to make sure that everyone is given fair opportunity to pitch for anywhere from PIC. But I admit, there are instances previously where you would see the same person doing work for PIC.

**CHAIRPERSON:** And roughly, how big is that data base? How many companies? On transactions. I think, I do not want to talk about supply chain. Just on the transaction side.

**MR SELLO NOKOANE:** Well, on the transaction, the data base, I stand to be  
10 corrected, but I think there are more than 50 service providers.

**CHAIRPERSON:** So, it is not like hundreds and...

**MR SELLO NOKOANE:** No, it is not like hundred and hundreds of service providers, but I think there more than 50 service providers.

**CHAIRPERSON:** Yes, across the board. So, is sort of for valuations, for legal advice. For what?

**MR SELLO NOKOANE:** So, maybe I should just correct through you, Commissioner. There is the 50, excluding legal firms. The legal unit has got its own data base of law firms. Sorry. As I have said in my statement that the procurement process as it relates to legal firms is not handled by – is not coordinated by investment management  
20 operations, but by the legal unit themselves. So, ja. The 50 is just excluding the legal...

**CHAIRPERSON:** So, it will be the normal ones like Deloitte, Ernest and Young, boutique firms. The Standard Banks and all that. Ja? Correct? No?

**MR SELLO NOKOANE:** Well, the majority of them are black owned firms. Small firms. Yes, you do have Deloitte and audit firms.

**CHAIRPERSON:** All right, thank you.

**MR EMMANUEL LEDIGA:** You can proceed from paragraph 5.1. Under listed investment disbursement process.

**MR SELLO NOKOANE:** Yes. The disbursement process covers initial and subsequent disbursements. The process followed for initial and subsequent disbursement are substantially the same, except one specific areas which are outlined below.

It must be noted that the processes outlined below represents the current process, disbursement process. Both processes would commence opposed conclusion of the legal agreements and the investment handover process.

10 I just want to pause through you, Commissioner, on the investment handover process. Once the legal agreements are concluded, as part of our responsibility is to call a – what we call a handover meeting.

In that handover meeting we would invite the deal teams who are the owners of the transaction. We would invite all the internal stakeholders. For example, including legal. Including ESG. Including PMV.

Now the purpose of this – and my colleagues have spoken about this in the previous submissions. The purpose of this meeting is to bring everyone on board in terms of the transaction. For example, if you remember in the investment process of that Mr Roy Rajdhar articulated at the beginning of the commission.

20 Finance, for example, is part of the whole invest, because ultimately and they come post, mainly after the transaction is approved. So, therefore, we call this meeting, so that everyone can have the same understanding of the transaction, prior to any disbursement that would happen on this transactions.

And further to that, our requirement of the handover meeting is that the deal team prepare presentation, because obviously, in that handover meeting you would have

legal agreements and appraisal documents and there are quite a number of documents. But just to make sure that everyone is onboard. The requirement is that the deal team must put together two, three slides to give background of the transaction and that is the reason why we have it. So, that everyone is onboard as we now move to the disbursement process for a particular transaction.

**MR EMMANUEL LEDIGA**: Paragraph 5.4.

**MR SELLO NOKOANE**: This process outlined below must be read with the unlisted investment delegation of authority, the procedure manual for unlisted investment, ESG legal unit, risk unit and portfolio management and valuation and finance procedure  
10 manuals.

Initial disbursement process:

Once the handover process is completed the transaction moves to the disbursement process. The investment team and the IM operation team will together prepare an disbursement file.

The disbursement file will be prepared in line with the disbursement check list which shall be signed in line with the delegation of authority. The template is as the disbursement check list is attached as Annexure E1.

**MR EMMANUEL LEDIGA**: Just before we move on. Annexure E1 is the second final document in the annexures. Is that correct?

20 **MR SELLO NOKOANE**: It is in terms of my annexure... My documents is just the document just before Annexure F.

**MR EMMANUEL LEDIGA**: Yes, that is correct. So, apologies, Mr Commissioner. We had not put a tab, but it is that document before the extract of the internal audit report.

**CHAIRPERSON**: Is it the one headed, Isibaya ...[indistinct] loan or what is it?

**MR SELLO NOKOANE**: That is it.

**MR EMMANUEL LEDIGA**: Yes, Commissioner.

**CHAIRPERSON**: Yes, thank you.

**MR SELLO NOKOANE**: May I continue?

**MR EMMANUEL LEDIGA**: [No audible reply]

**MR SELLO NOKOANE**: The purpose of the disbursement check list one is to outline all documents that must be included in the disbursement file, which may include but not limited to the following. Copies of the approving committee submissions; resolution of the approving committee; copies of the legal agreements; FICA certificate compliance document; completed declaration of interest forms.

10 This declaration of interest form is completed by the deal team. CP satisfaction letter. Accompanied the disbursement file will be a disbursement memo, requesting approval to disburse funds. This disbursement and the check list two will be signed in line with the delegation of authority.

Critical in the disbursement memo is the confirmation by the respective heads of the following. So, meaning that the memo would be signed by the following executive heads. For example, in a case where it is for example Roy's or Impacting Investing Transaction, Roy would then be the executive head, signing off.

The confirmation... So, I am on 5.8(a). In respect of the executive head the investment falls under, such executive will confirm the following. That all approval conditions  
20 related to the investment and they had drawn down conditions for the request, have met and the client is entitled to draw from the available funds and accordingly recommend payment.

In respect of the executive head risk, confirmation that all risks, excluding legal risks, identified at the approval stage are the same and no new risk have emerged as at the date of this draw down request and accordingly, recommend payment.

In respect of the executive head legal, confirmation that all legal risks are identified at the approval stage, are the same and no new legal risks have emerged, as at the date of this draw down.

Drawn down request and according recommend payment:

In respect of the executive head, ESG confirmation that all ESG risks are identified at the approval stage are the same and no new ESG risks have emerged, as at the date of this drawn down request and accordingly recommend payment.

Now, through you, Commissioner. These confirmations were introduced in March and I will talk about it when I come Section 6 of my statement. Were introduced in March, I think 2016. And the reason why is that prior to this the disbursement memo will just have – for example, under executive heads – will just say recommend, not recommend.

But the question was always: What are you recommending? What are you signing off when you sign off the disbursement memo? So, what we then did, we then went through a process where we then looked at each and every executive heads. So, say: If you are signing the memo, what are you signing for?

So, that tomorrow there is no confusion as to why have you signed the memo, because then the memo was just saying recommended, recommended, recommended and no one was actually able to articulate to exactly what are you recommending and hence, the introduction of these confirmations.

Further confirmations will be provided by senior managers within the areas referred to above through disbursement checklist two. The critical in the disbursement checklist is the following confirmation by the respective senior managers, reporting to the above executive heads.

In respect of IM operations, reporting to the executive head investment management, confirmation that' 1), the signature on the draw down/utilisation request matches the

signature on the PIC records; 2) There is sufficient funds available from the committed funds to honour the request; 3) The bank account details included in the draw down/utilisation request matches the bank detail or bank account details in the PIC records.

In respect of the portfolio valuation and evaluation, reporting to the executive head investment management:

Confirmation that the condition relating to the current draw down/utilisation has been met and the client is entitled to the draw from the available funds. Furthermore, that there are no conditions that have emerged as at the date of the draw down/utilisation that would require PIC not to honour the current draw down/utilisation as stipulated in the legal agreements.

In respect of the investment team, reporting to the executive head, either impacting investing of private equity funds of funds:

Confirmation that the conditions relating to the current drawn down/utilisation request have been met and the client is entitled to draw from the available funds. Furthermore, that there are no risks or conditions that have emerged as at the date of the draw down/utilisation that would require PIC not to honour the current draw down/utilisation, as stipulated in the legal agreements.

In respect of legal advice reporting to the executive head, legal:

20 Confirmation that all legal risks identified at the approval stage are the same and no new legal risks have emerged, as at the date of the draw down/utilisation, including that there is non-compliance with the prevailing legal agreements which would require PIC not to honour the current draw down/utilisation.

The above confirmations are intended to provided the approval with assurance that all of the conditions have been met before funds are released and there are no new

unmitigated risks which the investment will be exposed to.

Once approved the disbursement memo and the disbursement file will be submitted to the investment funds for payment of the funds in line with the memo. Once payment is made, investment finance will forward proof of payment to the investment, IM operations team for filing in the disbursement file. Once disbursed, the transaction will move to post-investment monitoring and valuation.

Subsequent disbursement process:

Dam operation team is responsible to initiate subsequent disbursements once they receive a draw down/utilisation request from the existing investee companies. These requests are mainly received from investee companies through emails.

Once the IM operations team received the drawn down request a disbursement memo, the disbursement checklist two will be prepared by the IM operations and signed in line with the delegation of authority.

The disbursement memo will be accompanied by the following documents; disbursement checklist two; capital draw or draw down notice; portfolio company update; banking details confirmations; summary of the capital drawn to date; and any other document relevant to the call.

The disbursement memo and the check list will have the same confirmation as in case of initial disbursement by the executive heads and the senior managers and both will be signed in line with the delegation of authority.

Once approved the memo and the relating supporting documents, will be submitted to investment finance for payments of funds in line with the memo. Once payment is made, investment finance will forward proof of payment to IM operations team for filing.

IM operations role in VBS, Mutual Bank:

As outlined above, the investment team and...[intervenes].

**CHAIRPERSON:** Just a question. So, in terms of your process, do you also service the listed side or is it just the unlisted side?

**MR SELLO NOKOANE:** Through you, Commissioner. It is only the listed side.

**CHAIRPERSON:** The unlisted side.

**MR SELLO NOKOANE:** Unlisted side.

**CHAIRPERSON:** The unlisted side, ja.

**MR SELLO NOKOANE:** Ja, we do not service the listed side.

**CHAIRPERSON:** They have a separate team or is within the IM or is completely separated?

10 **MR SELLO NOKOANE:** They have a separate team. So, the IM operations I am referring to, is only for unlisted side within that investment management division, I referred to in the beginning.

**CHAIRPERSON:** Okay. So, within that, there is a separate team but which is a listed team.

**MR SELLO NOKOANE:** No, what I... Through you, Commissioner. So, the IM operations that I am referring to here is only for unlisted. I assumed that the listed side have got their own operations team that does the operations. Ja. So, we do not handle the...[intervenes].

**CHAIRPERSON:** You are assuming. You do not know.

20 **MR SELLO NOKOANE:** No, they have their operations.

**CHAIRPERSON:** Oh, all right. Thank you.

**MR EMMANUEL LEDIGA:** Sorry, is it a question of the Chinese Wall?

**CHAIRPERSON:** [laughter]

**MR SELLO NOKOANE:** As outlined above, the investment team and IM operations team would prepare the disbursement file in case of initial disbursement and also

prepare subsequent disbursement. The disbursement file will be prepared in line with the checklist, disbursement checklist which shall be signed off in line with the delegation.

In respect of the role of IM operations, the unit led the preparation of the disbursement, following the conclusion of the legal agreement in case of VBS. The first disbursement amount of 100 million was paid to VBS on the 31<sup>st</sup> July 2015.

The disbursement memo, both initial and subsequent of all the drawn downs have been prepared by the fund administrator or investment analyst and recommended by myself, prior to such memo being circulated to the rest of the signatures in line with the  
10 delegation of authority.

Paragraph 16.3 just gives the table in terms of all the drawn downs that were made on VBS, following the conclusion of the legal agreements, regarding the revolving credit facility of 350 million.

**MR EMMANUEL LEDIGA:** Are there points of emphasis that you just want to point out in relation to that table?

**MR SELLO NOKOANE:** I wanted just to... Because this is a revolving credit facility and in terms of the agreement – what it means is that any capital repaid by VBS will become available for re-draw.

Now, if we look at that column called, which is column 4, if you come from  
20 the left... Or, from my side it is the left. Which says it is drawn down. The Commissioner will note that there is an amount of 82.9 million. 82 999 559 and an amount of 54 445 227. An amount of 21 709 792.

These are the amounts that have been repaid at the days as outlined in the second column. For example, the 82 999 559 would have been a total capital repaid by the 8<sup>th</sup> March 2017. And therefore, if we go to the next line, under capital column 6, on

the 9<sup>th</sup> March 2017 VBS drew 80 million from that 82 999 559 which was repaid as of the 8<sup>th</sup> March 2017.

**CHAIRPERSON:** Is it fair to say that from this table that immediately after payments, VBS would draw or would make draw down or shortly after making capital repayments?

**MR SELLO NOKOANE:** Well, if you take for example the 82.9 million. That is repayment over a period of time. So, what we are saying... We are saying that as of the 8<sup>th</sup> March 2017, the sum of the capital repaid by VBS amounted to 82.9 million. And hence, for that 82.9 million was available for redraw on the 9<sup>th</sup> March 2017.

**CHAIRPERSON:** All right. Thank you.

10 **MR SELLO NOKOANE:** Can I continue?

**MR SELLO NOKOANE:** [No audible reply]

**MR SELLO NOKOANE:** Based on the nature of the facility...[intervenes].

**CHAIRPERSON:** Just... Let us double check. So, the 82 million, are you saying it is a breakdown of something else? This is not the lump sum?

**MR SELLO NOKOANE:** Ja, it is a sum of the capital...[intervenes]

**CHAIRPERSON:** Some payments which have happened before.

**MR SELLO NOKOANE:** Ja, up to the 8<sup>th</sup> March 2017.

**CHAIRPERSON:** Yes, yes.

20 **MR SELLO NOKOANE:** And therefore, the... You will see then the capital call number 6 which was processed on the 9<sup>th</sup> March 2017 for 80 million was actually from that capital repaid of 82.9 million. As of then. Because it is a revolving credit facility.

**CHAIRPERSON:** Did you follow up with the bank, how they were using the money? Because it was ring fenced and it was supposed to be used for that contract financing. Were they doing that?

**MR SELLO NOKOANE:** So, our role as it relates to these disbursement, is that, any

disbursement, obviously, in the legal agreements there would be conditions to any disbursement. In this case of VBS, when they drew any amount that is reflected in the table, there are a number of documents that they are supposed to provide before we can process the...

For example, the underlying agreements in terms of the full supply would be supply of their submissions from VBS. So, would not obviously proceed without these documents or those conditions as it relates to any disbursement that we will make, without us having received those documents. Having gone through it and making sure that those are correct documents that...

- 10 Once the asset relates to whether... Once it is disbursed, whether they are actually going to use it. We do not go to that extent. Where we are, we expect that for example the PMV team, because they do post-monitoring... Ja, post-disbursement monitoring. They will then make sure that – or they will, as part of their normal monitoring, just follow up on the disbursement that we have made.

Based on the nature of the facility which is revolving, the repay capital becomes available for redraw, which as at the time of the statement, VBS had drawn down 134 million of the withdrawal capital of 159 million.

Revolving credit facility, ...[indistinct] and suspension of the drawn down...[intervenes].

- CHAIRPERSON:** Just before you move forward. So, there is an amount total drawn  
20 down. You say, the last amount total is 324 million. What is that?

**CHAIRPERSON:** So, just to go... The total drawn down, right. It is the 350 million. The original facility and further to that, they have drawn 134 million.

**CHAIRPERSON:** Yes, yes.

**MR SELLO NOKOANE:** But from a total of 159 million, re-drawable amount which is sitting in that column. The fourth column. So, in all in all, they would have drawn

484 million. If you take the original 350 million plus the 134 million that they have drawn from the repaid capital of 159 million.

**CHAIRPERSON:** Yes, yes.

**MR SELLO NOKOANE:** Yes.

**CHAIRPERSON:** Okay. So, this RCF was going growing? It was not limited to that 350 million?

**MR SELLO NOKOANE:** No, it was not limited to it, because remember, in terms of this facility, that any capital that is repaid it becomes withdrawable. So, but you will always make sure that you are going to have to go back to the 350 million, as my colleagues  
10 have explained.

But in terms of the total amount that has been drawn, it should take into account what has been repaid and which was available for withdraw. Then you are looking at the total of 384 million.

**CHAIRPERSON:** So, when the bank went down, what was the total amount that they owed to the PIC on this one, on the RCF?

**MR SELLO NOKOANE:** Okay, and I will then just...[intervenes].

**CHAIRPERSON:** You will talk to the capital.

**MR SELLO NOKOANE:** Without including any interest. Because remember, they had drawn 350 million, right. And then they have repaid that 159 million and then they  
20 withdrew from that 159 million, 134 million. In essence for me, you would then have to take the 350 million and then you have to say that off the 350 million, they have repaid 159 million and then however, they have drawn 134 million from that.

So, you will then take the 350 million which I think will come back to the 324 million, that we say(?).

**CHAIRPERSON:** 324 million?

**MR SELLO NOKOANE**: 324 million. Ja.

**CHAIRPERSON**: Which was the total amount owed at certain point in time.

**MR SELLO NOKOANE**: If we look at the principle amount.

**CHAIRPERSON**: Yes.

**MR SELLO NOKOANE**: Yes.

**CHAIRPERSON**: This what they went down, owing the PIC.

**MR SELLO NOKOANE**: Just on that facility.

**CHAIRPERSON**: Yes, yes. All right.

**MR EMMANUEL LEDIGA**: Sorry, why do you say just in that facility? Was there  
10 another one?

**MR SELLO NOKOANE**: No, no. I was just making the matters for the facility. Because  
the one was just equity.

**CHAIRPERSON**: And was there any security packages arrangements on that one?

**MR SELLO NOKOANE**: On the 350 million?

**CHAIRPERSON**: On that 324 million. If you are correct about that.

**MR SELLO NOKOANE**: So, my understanding of this that – because the amount  
outstanding was secured by the underlying full(?) contracts and I think we had a  
cession on the bank accounts. So, there was underlying security on the 350 million  
which were the full contracts.

20 **CHAIRPERSON**: Okay, so it could be that the PMV has managed to get something  
back, maybe?

**MR SELLO NOKOANE**: I would not want to comment on that.

**CHAIRPERSON**: Yes, yes. Okay, but I am sure they will...[intervenes].

**MR SELLO NOKOANE**: I think they will be... Ja, best place to...[intervenes].

**CHAIRPERSON**: We will know about it at some point. I am sure.

**MR EMMANUEL LEDIGA**: We will provide that information, Mr Commissioner. As we know that, that the bank is in liquidation and I think in that application it appeared that these contracts were fabricated. So, we would have... But we will get that information and place it before the commission.

**MS GILL MARCUS**: You mean the field contracts were fabricated?

**MR EMMANUEL LEDIGA**: That is correct.

**MR SELLO NOKOANE**: Can I continue?

**MR EMMANUEL LEDIGA**: Yes.

**MR SELLO NOKOANE**: I line with the provision of the legal agreements, which I think  
10 was close 18.1 million, and discussions, amongst PIC officials which included Mr Paul Magula, former Executive Head Risk and Mr A Nesani from Executive Head Legal, Counsel Governance and Compliance.

The PIC commission, the review of the facility. One year into the facility. This led to the suspension of any further drawn downs. I have attached as Annexure A to the statement, outlining the concurrence of the revolving credit facility review and the suspensions of the drawn downs which I personally sent to the VBS's CFO, Mr Phillip Truter.

The review of the facility was led by PMV or Portfolio Management and Valuation, assisted by the transaction team. The IM operations were not involved in the review  
20 and have never had sight of the outcome of the review. However, during the resumption of the disbursements, I am hundred percent sure that I would have consulted with the PMV team to confirm whether we can now resume the drawn downs and there are no adverse findings from the review.

The review was commissioned after VBS had fully drawn down on that 350 million which I think it was about nine months into the facility. I was not aware that part of the

conditions of the investment committee's approval of the 350 million was that the 200 million could be disbursed and based on the performance, the balance of 150 million can be disbursed.

This condition was also not contained in the facility agreement. Following the suspension...[intervenes].

**MS GILL MARCUS**: Sorry. Can I just ask a question on that, because this has come up a number of times already. That there seems to be a difference and evidence provided to us by a number of statements so far. There seems to be a difference between what is agreed and then what is captured in the disbursement of the credit  
10 facility or whatever the entity is.

And I would think that perhaps there needs to be somewhere along the lines, some review by our team as to how often did this occur in the cases that we are looking at. Where there is an investment committee decision with conditions or pre-conditions or conditions precedent that are not captured in the agreement, in the legal agreement or in the facility that is granted.

That creates a problem down the line, where there is a gap between what is expected, what is agreed, what is approved and what is finally concluded. And I think it would just be useful to get some kind of sense of that frequency, because this is happening far too often in the information before us.

20 And therefore, it must raise the question about what the legal team is doing to see that, that see through from initial proposal and all the things that have been said are captured in the final document.

**MR EMMANUEL LEDIGA**: Thank you, Commissioner. We will do so.

**MR SELLO NOKOANE**: Can I continue?

**MR EMMANUEL LEDIGA**: Yes.

**MR SELLO NOKOANE:** Okay. Following the suspension of the drawn down which communication was sent to VBS on the 5<sup>th</sup> August 2016. The draw down resumed in 2017 with a request to disburse 80 million from the withdrawable amount of 82.9 million.

The confirmation of the withdrawal amount was received from the Listed Investment Valuation Unit within finance and in respect of the drawn down of the 80 million, I have attached as Annexure B to the statement, the email we have received from Ms Thembekile Maseko, an official within the Listed Investment Valuation Unit.

Supporting the email is a monetisation schedule which confirms the withdrawable  
10 amount of 82.9 million. This monetisation schedule is attached as Annexure B1 to the statement.

**MR EMMANUEL LEDIGA:** So, this Annexure B1, it is a spreadsheet. Is that so?

**MR SELLO NOKOANE:** Yes, Commissioner.

**MR EMMANUEL LEDIGA:** Mr Commissioner, I confirm that it was difficult to have it printed. It is a big document, but it has been provided in an electronic form to the commission.

**MR SELLO NOKOANE:** The drawn down notice from 80 million was received from VBS on the 15<sup>th</sup> March 2017. The request from the VBS is attached as Annexure C to this statement. The draw down for the 80 million was processed on the 13<sup>th</sup> April 2017.  
20 The drawn down was approved under the new process which is outlined below. The draw down was signed off in line with the delegation of authority.

A new draw down template:

In March 2016, we implemented a new disbursement template and enhanced the drawn down memo. The enhancement were intended to provide approval with the assurance that all the conditions have been met before funds are released and there are no new

unmitigated risk which investment will be exposed to. We have attached as Annexure D to this statement, the discussion that led to the enhancement.

It must be noted that VBS capital call one to four was not processed under the new disbursement templates. As stated above, the 80 million disbursement was done under the new disbursement template. We have attached the copy of the disbursement memo and the supporting documents relating to the 80 million as Annexure E to this statement.

The IM operation assumed that there were no material adverse outcome from the RCF review, as all delegated people have signed off the disbursement. Also, taking into  
10 account, that during the resumption of the disbursement, I am a hundred percent sure that I would have consulted with PMV team to confirm whether we can now resume the draw downs and there are no adverse findings from the review.

Should there have been an adverse outcome from the review, it would have been detected by the PMV and the deal team and the disbursement for the 80 million would have been on hold.

**MR EMMANUEL LEDIGA**: Before we proceed. Would Mr Nesani and Mr Magula have been involved in the process of approving this review of the transaction?

**MR SELLO NOKOANE**: Through you, Commissioner. I am assuming you are referring to the disbursement memo?

20 **MR EMMANUEL LEDIGA**: Yes, sorry. The disbursement memo. Would they have been involved in that as assurance providers, the one being in legal and the other being in risk?

**MR SELLO NOKOANE**: Through you, Commissioner. Yes, they were signatories on the disbursement. Both Mr Magula and Mr Nesani.

**MS GILL MARCUS**: And how did this conflict with them being board members, wherein

we heard earlier, there could not be discussion with them because their fiduciary duty belonged to the board. They are head of risk. They are head of legal. And they are now approving a disbursement for the very board that they sit on, that they cannot talk to you about.

**MR SELLO NOKOANE:** Through you, Commissioner. It is common practice within the PIC. In fact, it is not them only. There are PIC officials who are sitting on boards of investee companies, but over and above that, they would sign the disbursement or...

Ja, they would sign the disbursement from those investee companies. However, in this case, you know, one could then raise the issue of conflict of interest. I am aware of – or  
10 personally of one of the transactions where one of the colleagues was sitting on the board.

And in terms of the process from their side, from the investee company, when the capital call... When we received the capital call, right. I would have the signature of the same PIC official. And therefore, our... For my comfort, my request was that, that PIC official not sign the disbursement memo, because I viewed that as – particularly for the fact that she even signing off the capital call from the investee company.

So, that we have somebody separately who is going to then sign the disbursement memo. But, yes. It is a practice within PIC at this stage. There are a number of transactions that are colleagues are sitting on boards, but they also sign the  
20 disbursement memo.

**MS GILL MARCUS:** Have you raised that with any structures within the PIC as a conflict of interest and a practice that has real risks involved about governance? I mean, there is a contradiction between what Ms Mdluli said earlier about not being able to talk to them and yet, they are signing off the very disbursement.

And where the fiduciary duties lay and where the responsibilities lay and I am really just

asking where they give that, that you had been aware of it. Was it formally raised as a point for discussion in the PIC by you or any of your colleagues that this is a practice that needs to be reviewed?

**MR SELLO NOKOANE:** Through you, Commissioner. I do not recall it raising it formally, but I think I had discussion informally with colleagues internally. And I think the view is that there other compensating controls, because for example, that memo is signed by a number of people, including the...

For example, in case of VBS, for example. You have PMV signing off also on the memo and you have also ESG, you know, signing off on the memo. You have got risk signing off on the memo. You have got legal signing off on the memo. So, the view was that...[intervenes].

**MS GILL MARCUS:** The risk...[intervenes].

**UNIDENTIFIED SPEAKER:** [Indistinct]

**MS GILL MARCUS:** For instance. So, the question I am raising is that I understand that you may not have raised it formally, but because other entities are co-signing does not legitimate the practice that is there. It is something...

Because if I see X's, if I just take an example. If I see that risk has signed off, okay. I am going to rely on risk, but maybe if I am the risk person serving on the board, can I rely to be saying that A in this circumstance and B in that circumstance. It becomes a conflict.

So, the question that arises is. Who do you rely on who has signed off, is there is that conflict? So, it is not sufficient to say that there are other people who signed off as well. You know, you can have 21 sign offs, but everyone relies on below or the one above.

**MR SELLO NOKOANE:** Through you, Commissioner. I take the point and I think it is

something that needs to be looked at seriously within our processes.

Revolving credit facility agreement:

As stated in above, the condition of the IC approval that the 2000 million be disbursed and based on the performance on the balance of 150 million can be disbursed, was not included in the agreement or the RCF agreement. Furthermore...[intervenes].

**MS GILL MARCUS:** Sorry, just before you come the second one, because I had also asked you with that one, to explain what the two additional clauses were. But in that first statement that you are making under 6.11. Is that not a material non-inclusion and therefore, if legal has signed off on that, how has that occurred?

10 Because that is material. It is not immaterial. It is a very significant requirement that has not been met, but legal has signed off on the document. Who or how does that occur?

**MR SELLO NOKOANE:** Through you, Commissioner. I agree this is a... I agree it is a material... I fully agree with... I think, through you, Commissioner. And I think it goes back to that point of relying on other signatories. I think if you look at for example, in terms of the legal agreements. Part of our documentation in the disbursement file is a CP satisfaction letter.

We place heavy reliance on that CP satisfaction letter. If we receive that letter, signed off by legal to say all the CP's have been met... So, we place reliance on it. On that  
20 particular letter. And I think as it relates to this, for example, this condition of - by the investment committee and it is clearly stated in the resolution.

We can clearly read it from the resolution. Why it did not end up in the legal agreement... Yes, it also baffles me. But some two years ago - and it would take me to Annexure F – some two years ago there was an audit finding relating to that specific issue of CP's not ending up in the legal agreements as approved by the committee.

And one of the recommendation by the internal audit was that the respective divisions, for example, ESG... For example, ESG for example, when the transaction is taken to a committee or to PMC for final approval, they do their independent submission.

For example, also legal. They will do their own independent submission. Now, in their submissions you will find that there are conditions that they would want the committee to approve on a particular transaction.

Now, previously... So, what had happened was that those... So, if the committee approves those conditions from ESG, the executive head of ESG did not have sight of the legal agreements until it is signed.

10 So, which then was raised by the internal auditors to say, in order... Their recommendation was that going forward, we need to have all the respective executive heads who are interested or have got interest in the transaction.

To also co-sign on the legal agreements, so that, that would then confirm that they have reviewed the legal agreements and they have made sure that those conditions that they have tabled at the committee, PMC or IC which have been approved, they are actually incorporated into the legal agreements.

But recently we had... That was the recommendation of the internal audit and is attached as Annexure F of my submission. Where they ...[indistinct] all the recommendation. And my reading of the comments from the executive is that they  
20 have adopted those recommendations from the internal audit. Just to mitigate one of those risk of conditions being approved by the committee, but not ending up in the legal agreements.

Now, whether that recommendation was fully implemented within the PIC is another question. However, what I wanted to note is that recently we went to the investment committee to – where we were dealing with the delegation of authority for unlisted

investment.

And part of the recommendation or our recommendation to IC was to say, all the – for example, in terms of the legal agreements, before the final approve of the legal, who is going to sign the legal agreements.

All these executive heads that are impacted by this transaction should sign off, to say that they are happy with the legal agreements. So, that tomorrow you do not end up with legal agreements which do not have these conditions that have been approved by the...

10 But the view at the meeting was that, that could typically prolong the process. If I may use the word. The view was that it is the responsibility of the legal team, because they are drafting this legal agreements. To make sure that whatever conditions that are approved by the committee they end up within the legal agreements.

And through you, Commissioner. I think for me, part of the problem is that, there are instances where clearly is an issue of – and a lack of a better word – of performance. Of people not doing what they supposed to be doing.

And then tomorrow coming up with processes to try to address a problem that is not necessarily created by a process, but by purely those respective divisions or officials, not doing what they are supposed to do.

20 And making sure that where you have people not doing what they are supposed to do, proper actions are taking. And also, bearing in mind that ultimately it also hinges around, you know, what is in the balance score cards of those various divisions.

And therefore, if you do not make sure that within the balance score card of those respective divisions, you know, you do not for example rate them in terms of amounts of transactions approved. Because it is relevant to what they do. The balance score card should be clearly dealing with exactly what the division is supposed to be doing, rather

than...

So, for me – my view was always that, I think that part of the problem is that in terms of when you try... Where we are suppose to deal with issues and where we were suppose to deal with performance, we turn around and just create more processes and therefore, the process becomes insufficient but purely because we are not dealing with the actual issue.

**MS GILL MARCUS**: Sorry. Can you just give us the date of the internal audit's report, because it does not seem to have it?

**MR SELLO NOKOANE**: The date of the internal audit report is dated April 2018.

10 **MS GILL MARCUS**: Thanks. If we can go back to 6.11. I just wanted to understand what the two additional clauses were.

**MR SELLO NOKOANE**: Can I continue?

**MR EMMANUEL LEDIGA**: Sorry, Commissioner. As you...[intervenes].

**MS GILL MARCUS**: 6.11. It says: Furthermore, there were two additional clauses which were added to RCF. Which I did not understand.

**MR SELLO NOKOANE**: Through you, Commissioner. These two clauses relates to 3.5 and 3.6. Relating to... Which my colleagues have here.

**MR EMMANUEL LEDIGA**: Can I just ask? After legal has done the contract or drawn the contract, it does not go back to the level where conditions were placed. For  
20 instance, I see the contract does not go to them to make sure that all those conditions are included.

**MR SELLO NOKOANE**: No, it does not, Commissioner. As stated above, the condition of the IC approval that the 200 million be disbursed and based on the performance, the balance of 150 million can be disbursed, was not included in the RCF. Furthermore, there were two additional clauses which were added in the RCF and

which I did not understand which I found later after VBS went in curatorship from one of the PIC officials.

**CHAIRPERSON:** Just to interrupt you there. Do you think it was by omission, negligence or was it intentional to have inserted those clauses or do you know?

**MR SELLO NOKOANE:** I would not want to comment. I do not know the reason. Why would we insert those clauses. Particularly the fact that these typically has to be part of the approval conditions. So, I would not want to comment, because I am not sure why those clauses were.. It surprised me when I saw those two clauses in the RC.

**CHAIRPERSON:** Perhaps we can ask the question differently. Were you in a meeting  
10 where this issue was discussed and what was said?

**MR SELLO NOKOANE:** The issue of the two clauses?

**CHAIRPERSON:** Yes, yes.

**MR SELLO NOKOANE:** No, I was not in the meeting. I was just... I think this – I picked up following the announcement that the bank went under curatorship and as we were talking internally, one of my colleagues raised it to say: Are you aware of these other two clauses that were added into? That is how I became I aware of them.

**MS GILL MARCUS:** But perhaps just for clarification given that it went into curatorship and these clauses had been introduced what was the impact as a consequence for the PIC?

20 **MR SELLO NKOANE:** Well the, my, the, following the, so when I picked up there's and also the fact that the deal was went into curatorship and I clearly in my mind I clearly said you know what we, whatever amount that you know still it's gone, that's just what came to my mind.

**MS GILL MARCUS:** The essence of it is, is those two clauses removed the protection of the PIC?

**MR SELLO NKOANE:** Ja, ja.

**MS GILL MARCUS:** And created everybody else to be whoever would be ahead of the PIC the PIC would be last in line should anything go wrong and that was the purpose of it.

**MR SELLO NKOANE:** To manage the risk of conditions approved by the approving committee not filtering through to legal agreements it was recommended by the Internal Audit in 2018 that the memo who recommended the signoff of final legal agreements must include the executive heads of affected divisions to agreements amongst other recommendations. I have attached internal audit reported dated April 2018 where such  
10 recommendations were made by the Internal Audit as annexure F to this statement.

**ADV SECHABA MOHAPI:** Thank you Mr Commissioner that's Mr Nkoane's evidence.

**MR SELLO NKOANE:** Through you Commissioner what I'm going to say it's not part of my statement but I thought it be worth mentioning, I think part of the problem and I think it was spoken to by my previous colleagues around the system, the IT system. My belief is that although yes there are improvements that we can make within our processes but what is lacking now is the proper IT systems that would support our investment process and my colleagues made reference to a number of things we are doing manually and which creates a bit of a challenge and some of these things that have been picked up is purely because we don't have a proper system. But it's also  
20 worth noting that we are in a process of implementing a private equity system for unlisted investment. We've went out on a tender process since last year and we are actually in the process of implementing the project, we expect that before the end of this year the system would be fully implemented which will help quite a lot because as I said as we speak we right now a number of things within the unlisted division is done manually.

I mean for example you know the application process is one of the problems. At this point in time you can't really tell how many application process have we received in the last two, three weeks because you know we don't have proper systems to handle this, to handle the application process. So I think for me part of the priorities to make sure that we have this IT systems being implemented. The other thing is that I think we need to improve on is the around the handover process. Previously the handover process just became just a meeting that lasts you know five, 10, 15 minutes and then we are done. It started to lose the essence of it in terms of why we needed a handover meeting.

- 10 One of the things that we were discussing internally in terms of handover process is to actually invite the investee company or the sponsor to come to that meeting so he can meet the PIC officials face-to-face so it's not a handover meeting where it's just the PIC officials only and then we're reading documents you know so it will help also to put a face to the sponsors behind and colleagues from various unit can actually engage directly with the sponsors rather than just having a meeting, a meeting where for example it's just the PIC official.

- I think lastly Commissioner we, I believe the processes, the unlisted investment process as I've said have evolved over a period of time in the last two, three, four, five years if you compare the process now and you compare it with a process you know five  
20 years ago, six years ago it has improved significantly but I believe there are room for improvement as you know highlighted with some of these findings or as people come and give statements. In fact lastly I was saying to my colleagues as part of I think helping the Commission in coming up with recommendation we should probably put the submission just to give context in terms of how we evolved from 2013, 2012 up to where we are now from whether the governance committees, whether the investment

process whatever the case may be so that we can also help in terms of putting, helping the Commission put together the recommendation going forward. I'd like to thank the Commission.

**MR EMMANUEL LEDIGA:** You are welcome, I think we would like to have that if you can sort of prepare it and give it to the team, submit it to the team.

**MR SELLO NKOANE:** Thank you Commissioner.

**CHAIRPERSON:** I take it you signed your statement?

**ADV SECHABA MOHAPI:** There is an original that's been provided to the Commission Mr Commissioner.

10 **MR EMMANUEL LEDIGA:** Just some clarity, you've got two sections in your statement one is on procurement and the one is on disbursements are they linked, I mean you know it seems they are two separate concepts?

**MR SELLO NKOANE:** When I was requested to put my statement was that because if you recall the investment process from obviously receiving application until post the disbursement with these two key components I was trying to, and as I was requested to say in the investment process can we deal with that part where you, your involvement within the investment process one of the key, our key involvement is on the DD as it relates to procurement. And then one of our key involvement is as it relates to disbursement because I needed to cover what happened on the disbursement process  
20 as it relates to VBS so I needed to give context to the disbursement process and our involvement in the ... (intervention)

**MR EMMANUEL LEDIGA:** To cover your part in the value chain?

**MR SELLO NKOANE:** In the value chain ja.

**MR EMMANUEL LEDIGA:** Over the whole thing, okay no I'm clearer now, I'm much clearer.

**CHAIRPERSON:** Yes, thank you Mr Nkoane nè?

**MR SELLO NKOANE:** Yes.

**CHAIRPERSON:** Yes thank you very much and thanks for your time and thanks for coming to testify before us, we've learnt more about your institution the PIC than we knew because of your evidence. But I'm excusing you now, we are excusing you now, be ready though to come back if and when you are asked to do so to clear up certain things that we need clearance on alright.

**MR SELLO NKOANE:** Thank you Commissioner.

**CHAIRPERSON:** Thank you then, you are excused.

10 **ADV JANNIE LUBBE SC:** Mr Commissioner it's now quarter past four, I'm in a difficult situation, it's been a long day, I have another witness that is ready, I don't know what is the intention of the Committee till when do you want to sit this afternoon? What we can do I can inform the Commission that my intention was to present part of this witness's evidence this afternoon and the rest after the other witness tomorrow but I had sight of the statement of the witness that is coming tomorrow and it would seem to me that he will finish in the morning and that we can then deal with this witness after his testimony if that is perhaps a more acceptable situation?

**CHAIRPERSON:** So the plan was to have one witness tomorrow?

20 **ADV JANNIE LUBBE SC:** The plan was to have one witness tomorrow but it would seem to me that he will finish in the morning and I understood from the Commission that we can also use the afternoon tomorrow. If all is going to plan I foresee that we should be finished by about three o'clock tomorrow afternoon.

**CHAIRPERSON:** By about three o'clock that's fine. That's fine so this witness can then come tomorrow some time.

**ADV JANNIE LUBBE SC:** Yes.

**CHAIRPERSON:** Yes so we'll then adjourn until tomorrow at 10.

**ADV JANNIE LUBBE SC:** Thank you Mr Commissioner.

**CHAIRPERSON:** We can carry on until four o'clock tomorrow if necessary.

**ADV JANNIE LUBBE SC:** Thank you.

**CHAIRPERSON:** We'll adjourn.

**INQUIRY ADJOURNS UNTIL 27 MARCH 2019**