



MINISTER OF FINANCE
The Honourable Colm Imbert
Government of the Republic of Trinidad and Tobago

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Mrs. Jacqui Sampson-Meiguel
Clerk of the House
Office of the Parliament of Trinidad and Tobago
Levels G-8, Tower D
The Port of Spain International Waterfront Centre
#1A Wrightson Road
Port-of-Spain

Dear Mrs. Sampson-Meiguel,

**Re: Third Report of the Joint Select Committee on Finance and Legal Affairs of
Parliament on an inquiry into Commercial Banking Fees in Trinidad and Tobago**

Reference is made to your letter dated December 5, 2017 in relation to the Third Report of the Joint Select Committee on Finance and Legal Affairs of Parliament on an inquiry into Commercial Banking Fees in Trinidad and Tobago ("the Report").

In this regard, please see attached for the response to the recommendations and comments contained in the Report. This response was largely guided by the inputs of the Central Bank of Trinidad and Tobago, which is the regulator of the commercial banks in Trinidad and Tobago.

Yours sincerely,

Colm Imbert
Minister of Finance

**RESPONSES TO THE RECOMMENDATIONS/COMMENTS CONTAINED IN THE
THIRD REPORT OF THE JOINT SELECT COMMITTEE ON FINANCE AND LEGAL
AFFAIRS OF PARLIAMENT ON AN INQUIRY INTO COMMERCIAL BANKING
FEES IN TRINIDAD AND TOBAGO**

Recommendation 1:

The Ministry of Finance, in consultation with the Central Bank of Trinidad and Tobago (CBTT), should examine the existing legislation governing commercial banks and other financial institutions with a view of providing legislative oversight of fees (applicability and quantum) to commercial banking services.

In terms of existing legislation, Section 44A of the Central Bank Act, Chap. 79:02 (CBA) gives the CBTT the authority to fix the maximum and minimum interest rates payable on deposits received, as well as the maximum and minimum interest rates, fees and charges to be charged on loans, advances or other credit facilities by a financial institution. The CBTT, after consultation with the Minister of Finance, may also set the maximum spread between interest rates chargeable on loans and interest rates payable on deposits which a financial institution may earn, carry or charge.

Moreover, under Section 10(d) of the Financial Institutions Act, Chap. 79:09 (FIA), the CBTT, as regulator of the commercial banking sector, is empowered to issue Guidelines to regulate the market conduct of licensees. Within this capacity, the CBTT has already issued Guidelines concerning certain fees and charges including a Residential Real Estate Mortgage Market Guideline.

Additionally, the CBTT is in the process of drafting a Market Conduct Guideline. It is intended that this Guideline will be issued for consultation by early December 2018 and will set out the expectations of the CBTT regarding the market conduct of all institutions licensed under the FIA. The Guideline would serve to, *inter alia*:

- enhance transparency in lending and protect citizens from a lack of awareness of the true cost of credit by requiring, for example, full disclosure of effective interest rates as well as charges incident to the loan;
- require disclosure of all fees and charges applicable to deposit and other accounts or services;
- require the use of “plain language” in contracts and other agreements;
- ensure customers are provided with sufficient notice prior to:
 - the implementation of changes to the terms and conditions of any product or service including changes in fees and charges,
 - the discontinuation of services, and
 - the relocation/closure of branches.
- ensure that banks treat customers fairly and reasonably with respect to:
 - marketing of products and services,
 - provision of services to vulnerable citizens and differently-abled,
 - provision of information concerning the operation of their accounts, and
 - provision of advanced notice of any changes to the interest rates, charges or terms and conditions.
- require licensees to put in place effective customer redress and dispute resolution processes to ensure that all complaints can be dealt with in an independent, effective and prompt manner;
- outline fair debt collection practices; and
- data privacy and protection (security of customer information).

At this time, the CBTT is not proposing to prescribe the level or quantum of interest rates, fees and charges to be applied to a licensee’s products or services. This is in keeping with the approach taken in the 2017 Residential Real Estate Mortgage Market Guideline, which specified a minimum set of information that licensees must provide to mortgagors on the terms and conditions of their mortgage contracts to facilitate greater disclosure and increased transparency. However, where evidence of collusion, manipulation and/or price-gouging arises, the CBTT can act pursuant to Section 44A(1) of the CBA.

This is in keeping with international best practices¹ as outlined in a 2017 World Bank publication. Internationally, while financial consumer protection has become an increasingly mainstream priority, there is no single legislative approach to the treatment of commercial bank fees and charges. A review of the legislative provisions conducted in nine (9) jurisdictions² revealed varied approaches, ranging from legislative provisions that direct the control of fees and charges by a regulator, an emphasis on consumer-related protection that focuses on issues of disclosure and fair contractual terms, and the creation of self-regulatory channels for financial institutions. Three (3) of the jurisdictions reviewed³ had legislative provisions which allowed for direct control of fees and charges. The CBTT's legislative oversight of fees and charges is consistent with the non-prescriptive approach taken by several banking regulators to this issue as was noted in six (6) of the nine (9) jurisdictions examined. The CBTT therefore considers that the proposed issuance of the Market Conduct Guidelines would strengthen the legislative framework for the oversight of fees and charges.

Recommendation 2:

The Ministry of Finance, in consultations with the CBTT, should examine the provisions of Section 10 (d) of the FIA, with the view of issuing rules/guidelines for the imposition of fees for commercial banking services.

Section 10(d) of the FIA gives the CBTT the power to make Guidelines on any matter it considers necessary to regulate, *inter alia*, the market conduct of licensees. The CBTT has already issued several guidelines that cover aspects of market conduct. These include the Guidelines for the Security of Customer Information, May 2005; the Guideline for the Notification of New or Materially Different Banking Products or Services under the FIA, May 2012; and the Residential Real Estate Mortgage Market Guideline, 2017. The Guideline for the Notification of New or Materially Different Banking Products and Services requires the licensee to prepare a comprehensive product development report which considers at a minimum pricing, market research, financial projections and legal implications when developing a new or materially different product or service. The Residential Real Estate Mortgage Market Guideline,

¹ *Good Practices for Financial Consumer Protection*, World Bank 2017.

² Canada, Barbados, Jamaica, Australia, New Zealand, United States of America, United Kingdom, Ireland and Turkey.

³ Barbados, Ireland and Turkey.

2017 specifies the minimum amount of information that licensees must provide to mortgagors on the terms and conditions of their mortgage contracts and has proven to be very useful to customers of financial institutions.

As mentioned in the response to Recommendation 1, the CBTT will be complementing the existing requirements by issuing an overarching market conduct guideline. The CBTT will also continue to discuss the issue of consumer protection at its quarterly meetings with the Bankers' Association of Trinidad and Tobago (BATT), and semi-annual meetings with the Association of Trinidad & Tobago Insurance Companies (ATTIC).

Recommendation 3:

The CBTT to issue a clear statement informing the public of its official position relating to its powers under the FIA and other legislation, with specific reference to fees for commercial banking services and its plans to increase oversight of such fees and charges.

Accompanying the broad market conduct guidelines by the end of 2018, the CBTT intends to put an explanatory statement on its website regarding its powers under the FIA and other legislation, including its strategy with respect to oversight and public education on fees for commercial banking services. The Office of the Financial Services Ombudsman (OFSO) will complement this approach by stepping up its outreach and educational activity in collaboration with the National Financial Literacy Program (NFLP), financial institutions and regulators, and the Financial Literacy Secretariat of the Tobago House of Assembly (THA).

Recommendation 4:

Expansion of the regulatory role of the CBTT to ensure that commercial banks establish and comply with an enhanced Code of Practice on consumer related matters including:

- (a) educating customers on bank fees and charges;***
- (b) promoting "fair and reasonable" charges for financial services and products;***
- (c) providing reasonable notice of bank fee adjustments; and***
- (d) providing quality customer service and establishing effective mechanisms for attending to customer complaints.***

BATT has developed a Code of Banking Practice (Code), which was last updated in October 2017. The Code touches on some issues involving financial consumer protection elaborated by the JSC, including provisions related to the disclosure of fees and charges. BATT notes that the objective of their organization as stated in its Bye Laws is “*To promote the consideration and the discussion of all questions affecting banking and financial services.....and generally to watch over, protect, represent, express and give effect to the views and opinions of banks on all matters relating to Banking and Financial Services.*” As such, its mandate does not extend to enforcement of its Code. Reliance is therefore placed on individual commercial banks’ commitment to comply with the Code. The CBTT in its market conduct guidelines will encourage adherence to BATT’s Code and engage regularly with BATT in monitoring compliance.

Recommendation 5:

The CBTT with the support of the OFSO must dedicate more effort and resources to promoting a culture of consumer rights knowledge and advocacy for financial services with particular reference to the more vulnerable in the society.

The OFSO treats with complaints of individuals and small businesses regarding financial services provided by commercial banks and insurance companies. The OFSO also works closely with the NFLP in providing consumer education. Outreach sessions are conducted in many communities, often by partnering with public or non-Governmental organisations, faith based and educational institutions⁴. The core financial education topics of the NFLP include: promoting the right financial attitude, budgeting and debt management, saving, investing and retirement planning, financial products, financial fraud, risk management/insurance, credit card management and hire purchase agreements.

The CBTT, with the support of the OFSO/NFLP, plans to undertake the following activities in the near to medium term:

⁴ Organizations have included the Geriatric Adolescent Partnership Programme (GAPP), Youth Training and Employment Partnership Programme (YTEPP), the Civilian Conservation Corps (CCC) and Community Based Environmental and Enhancement Programme (CEPEP).

1. Carry out an intensive public relations campaign to deepen public engagement, promote national awareness and greater use of the services of the OFSO and NFLP.
2. Continue to conduct financial literacy sessions, with a focus on financial education and empowerment at no cost to members of the public, particularly groups identified as vulnerable.
3. As part of its strategic plan, the CBTT intends to strengthen the efficiency and effectiveness of the OFSO and NFLP by, *inter alia*,
 - (a) Improving the technology employed by the OFSO and NFLP;
 - (b) Conducting a financial literacy survey, to measure how the financial capability of the population has changed over the last five (5) years;
 - (c) Developing a financial education strategy to facilitate the cooperation and collaboration among stakeholders to assist the public in becoming more financially literate (a National Financial Education Committee was formed with the signing of a MOU on March 12, 2017. The members of the Committee are the OFSO/NFLP, ATTIC, BATT, Financial Literacy Secretariat of the THA, the Co-operative Credit Union League of Trinidad and Tobago, Trinidad and Tobago Insurance Institute, the Trinidad and Tobago Securities and Exchange Commission, and the Trinidad and Tobago Stock Exchange.); and
 - (d) Developing a National Financial Inclusion Strategy.

Recommendation 6:

The Ministry of Finance in collaboration with the CBTT and the Ministry of the Attorney General and Legal Affairs should assess the feasibility of amending the Consumer Protection and Safety Act, Chap. 82:34 to make specific provision for the protection of customers doing business with financial institutions, including commercial banks.

In Trinidad and Tobago, the Director of Consumer Guidance, established under the Consumer Protection and Safety Act, Chap. 82:34, engages in activities relating to consumer protection. There is no specific exclusion of the provision of financial services in this Act. The Consumer Affairs Division of the Ministry of Trade and Industry (CAD) also has a mandate of investigating and resolving consumer complaints and enforcing laws regulating consumer

transactions. The CBTT and the Ministry of Finance consulted with CAD on the JSC's recommendation.

The CAD advised that for the period 2013 to 2018Q1, they received over 150 complaints regarding financial and/or insurance services; while there were some complaints involving increased commercial bank fees and charges, most centred on transactions relating to debit and credit cards and the proper application of the CBTT Rounding Guidelines following the demonetization of the one cent coin. The CAD generally refers these complaints to the OFSO as it does not actively pursue financial services matters because of practical considerations such as resources and the confidential client/customer relationship. The CAD also confirmed that its recently released National Policy on Consumer Protection does not specifically speak to financial services. Consideration should therefore be given to having financial services explicitly incorporated within CAD's National Policy. The CBTT will work with the Ministry of Finance and other relevant Agencies on this issue.

Recommendation 7:

The Ministry of Finance, in consultation with the CBTT, should review the regulations governing the banking sector to include:

- (a) the type of information that commercial banks are obligated to disseminate to their customers and to the general public;***
- (b) standards of customer service; and***
- (c) regulation of fees charged for ancillary services such as safe deposit lockers and other custodial and depository services.***

As discussed in our response to Recommendation 2, the CBTT issued a Residential Real Estate Mortgage Market Guideline which contains the minimum set of information that commercial banks must provide to mortgagors on the terms and conditions of their mortgage contracts. Additionally, as previously noted, the CBTT will be issuing guidelines addressing the matters referred to in Recommendations 7(a) and 7(b). With respect to recommendation 7(c), the CBTT considers that issues related to the levels of fees and charges can be effectively addressed via a

consumer protection framework involving consumer education and supervision of market conduct under existing legislation.

Recommendation 8:

Commercial banks to consider the expansion of “No-Fee Bank Account” services across the commercial banking sector in Trinidad and Tobago.

No-fee banking services are currently available in various forms and at different levels within the commercial banking system of Trinidad and Tobago, including:

- No-fee services tied to specific limits, with high fees attached if said limits are breached. Examples include no-fee services tied to minimum balance or maximum transaction limits.
- No-fee accounts and services provided to youths (persons aged 2 to 18), seniors (persons over 60) and students.

Each commercial bank takes a unique approach to the provision of low or no-fee accounts and services with variations on limits and target demographic groups. Local commercial banks do not currently provide low or no-fee accounts or services to the differently abled. Part A of BATT’s voluntary Code entitled “Disclosure: Fees and Charges” states:

“A Bank shall:

- (ii) Engage with Customers to determine whether Customers may avail themselves of reduced or no-fee services, in order to optimize the benefits Customers may derive from Bank Services;”*

Under its upcoming market conduct guideline, the CBTT will encourage commercial banks to be proactive in informing prospective account holders about no-fee options including limits and applicable conditions.

Recommendation 9:

The CBTT should ensure greater transparency from commercial banks as it relates to the rationale for fee adjustments.

As noted in the response to Recommendation 2, the CBTT intends to issue a market conduct guideline which will address this recommendation.

Recommendation 10:

The Ministry of Finance, in consultation with the CBTT, should examine the commercial banking sector to determine whether customers encounter any unwarranted impediments when terminating services with one commercial bank and initiating business with another commercial bank.

The CBTT intends to conduct a targeted review of this matter in the third quarter of 2018 and will engage with BATT with a view to gathering detailed information. Thus far, the findings of the CBTT indicate that in accordance with anti-money laundering (AML) and counter financing of terrorism (CFT) processes, the Financial Obligations Regulations specify a list of documents that financial institutions must obtain from customers prior to on-boarding. Some impediments to opening, terminating and switching bank accounts are linked to these requirements. The CBTT through the NFLP will engage with commercial banks to enhance public understanding of AML/CFT requirements.

BATT indicated moreover that there are additional steps in respect of the switching of accounts by a customer who has both deposit and credit facilities with a commercial bank. Owing to the credit arrangements, a customer will typically be required to give a period of notice and/or pay penalties, satisfy debt obligations, secure the release of collateral and incur certain fees and charges in order to close off one credit facility at one commercial bank and access another facility at the next.

Recommendation 11:

The CBTT to initiate discussions with BATT on the following proposals to enhance the services provided to commercial bank customers:

- (a) offering of a basic package of financial services with minimal charges to vulnerable groups in society such as students, the elderly and differently-abled; and***
- (b) providing financial literacy sessions to the public, with a special focus on the school population.***

The CBTT has engaged with the commercial banks at quarterly meetings since 2016 on the question of fee arrangements for vulnerable groups. A formal letter was sent to the commercial banks in July 2016 asking them to review their fee structures and facilities for vulnerable groups. All of the commercial banks responded detailing their special pricing arrangements for vulnerable members of society. Following receipt of the recommendations of the JSC, the CBTT held discussions with BATT in May and July 2018. The CBTT will continue to engage with BATT on this issue and notes that, as stated in the response to Recommendation 8, no-fee banking services are currently available in various forms and at different levels within the commercial banking system of Trinidad and Tobago.

There is a strong commitment from the CBTT and BATT on the subject of financial literacy. On March 12, 2017, the CBTT executed a Memorandum of Understanding (MOU) with a number of stakeholders, including BATT, to establish a National Financial Education Committee in order to facilitate and further strengthen cooperation and collaboration in this area. This was the culmination of a series of financial educational outreach activities in honour of Global Money Week, during which school children in Forms 3 to 5 were the identified target group.

Recommendation 12:

The CBTT examine the local banking sector to analyse the impact of new entrants (such as the Bank of Baroda (Trinidad & Tobago) Limited and JMMB (Trinidad & Tobago) Limited) on market conditions inclusive of product pricing and customer/competitor responsiveness to these new entrants.

The CBTT reviewed the change in market share and financial product prices consequent on the entry of the last three (3) new entrants into the commercial banking system. The analysis reviewed the impact of each new entrant on market share up to December 2017. The CBTT's findings show that while all new entrants have been in operation for more than ten (10) years, as at December 2017, their combined market share of total deposits stood at just 3.5 per cent. Similar to deposits, the market share as measured by assets was not appreciably affected by the new entries, and to date, the four (4) largest commercial banks continue to dominate the sector. The four (4) largest commercial banks collectively controlled over 97.0 per cent of the value of consumer loans before the entry of the new market players and continued to do so thereafter. In the real estate mortgage market, the three (3) new entrants were able to achieve a combined market share of 4.6 per cent by December 2017. Product pricing in the industry appeared not to have been significantly affected by the new entrants given their small relative size. While there is no evidence of a mass movement, clients in a few niche markets would have built relationships with the new entrants.

Recommendation 13:

Conditioned on the findings of the examination recommended at 12 above, the Ministry of Finance should engage the CBTT with a view to conducting an analysis of the cost and benefits of permitting two (2) small to medium-sized commercial banks to enter the local commercial banking sector.

A preliminary examination of this issue by the CBTT suggests that the costs of setting up new small and medium sized commercial banks in Trinidad and Tobago would be associated with regulatory and legal compliance, branding, staff hiring, outfitting of premises, investment in technology, etc. The benefits of permitting the two (2) new entrants could include fresh employment opportunities, capital inflows and the provision of niche and new services for certain customers. Over time, with sustained growth and market penetration, the additional competition could lead to improved service and/or lower cost to consumers.

Recommendation 14:

The CBTT to publish comparative data on fees charged by banks in a sample of CARICOM countries.

The CBTT has published on its website comparative data on fees and charges levied by commercial banks in those CARICOM jurisdictions for which data was available:

- Jamaica – http://boj.org.jm/financial_sys/rates_charges.php
- Eastern Caribbean Currency Union - <https://www.eccb-centralbank.org/p/commercial-banks-fees-and-charges>
- Turks & Caicos Island - <http://tcifsc.tc/public-informmmation/industry>

The CBTT already publishes on its website the annual comparative data on fees and charges of individual domestic commercial banks - <https://www.central-bank.org.tt/statistics/fees-and-charges>

Recommendation 15:

The CBTT and Ministry of Finance should examine the feasibility of enacting legislation for the purpose of establishing standards and procedures in the provision of commercial banking services.

The introduction of guidelines to address market conduct and consumer protection issues referred to in the CBTT's responses to Recommendations 1, 2 and 4 will address the issue of standards and procedures for the provision of commercial banking services. Additionally, as noted, the CBTT has issued a Residential Real Estate Mortgage Market Guideline which contains the minimum set of information that banks must provide to mortgagors on the terms and conditions of their mortgage contracts.

Recommendation 16:

The CBTT in consultation with the Ministry of Finance and the Ministry of the Attorney General and Legal Affairs take steps to enact legislation to permit agency banking in Trinidad and Tobago as a means of reaching more rural communities.

Agency banking enables businesses to conduct limited but commonly-demanded banking services. However, Sections 16 and 17 of the FIA prohibit persons other than licensed financial institutions from carrying on banking business or business of a financial nature.

Although agency banking can open up rural communities to banking services, given the availability of current and emerging technology, as well as the movement towards non-cash services, there may not be a significant impact. Additionally, if legislation is introduced to allow for agency banking it must be accompanied by the required safeguards to ensure that consumer protection and AML/CFT concerns are addressed.

Agency banking generally benefits countries with large geographical spaces and widely dispersed rural populations which otherwise would have no access to banking services. Hence, agency banking thrives in Nigeria, Ghana, Bangladesh and Mexico. Many of these economies introduced agency banking as a means of effectively closing their financial inclusion gaps⁵ which improved from an average of 35 per cent in 2014 to just below 50 per cent in 2017. By contrast, in Trinidad and Tobago, the financial inclusion ratio is estimated at 80.8 per cent (2017). Within CARICOM, agency banking has not taken hold. To date, Jamaica is the only CARICOM territory in which agency banking has been legislated, and only one (1) banking institution has applied for authorization to designate a banking agent in that jurisdiction.

Recommendation 17:

The CBTT in consultation with the Ministry of Finance and the Ministry of the Attorney General and Legal Affairs take steps to provide more oversight for hire purchase and similar financing arrangements offered by furniture and appliance retailers and other types of retailers.

The CBTT is not legislatively authorized to oversee the activities of retailers who offer hire purchase loans without also taking deposits. Hire purchase activity is governed by the Hire

⁵ This ratio represents “the percentage of respondents who report having an account (by themselves or together with someone else) at a bank or another type of financial institution or report personally using a mobile money service in the past 12 months.” Source *The World Bank’s Global Findex Database 2017* - <https://globalfindex.worldbank.org/>.

Purchase Act, Chap. 82:33. Consumer protection for services rendered, whether from registered or unregistered business, is the mandate of the Ministry of Trade and Industry. Consultations with CAD have revealed that this division currently provides some level of consumer protection facilitation between the public and hire purchase retailers.