



MINISTER OF FINANCE

The Honourable Colm Imbert
Government of the Republic of Trinidad and Tobago

Noted
Speaker
2018-12-12
Refer to See JSC.

F (I): 2/12/1

December 10, 2018

The Honourable Bridgid Mary Annisette-George, MP
Speaker of the House
Speaker's Chamber
Level 2, Tower D
The Port of Spain International Waterfront Centre
1A Wrightson Road
PORT OF SPAIN



Dear Speaker

Re: Fourth Report of the Joint Select Committee on Finance and Legal Affairs on an inquiry into certain aspects of the National Insurance System of Trinidad and Tobago

I refer to your letter dated October 04, 2018, reference Parl.: 14/3/45-5 on the subject at caption. The following responses to the findings and recommendations of the the Joint Select Committee on Finance and Legal Affairs on an inquiry into certain aspects of the National Insurance System of Trinidad and Tobago are forwarded:

Objective 2: To Examine the Implementation of the Actuarial Recommendations of the Ninth Actuarial Review of the NIBTT

At point 36 the Committee recommended that:

- A. The Ministry of Finance should collaborate with the NIBTT to present the Parliament with a strategic plan for addressing the long-term sustainability issues of the NIS.*

The NIBTT is a body corporate established by the National Insurance Act No. 35 of 1971 (The Act). The operations of the organization are managed by a tripartite Board consisting of Business Labour and Government. There is no legal requirement for the Ministry of Finance and the NIBTT to collaborate on the formulation of a strategic plan.

The last three (3) year strategic plan Vision 2019 was approved by the Board of Directors and shared with the Ministry of Finance. One of the key strategic objectives identified in the plan is to "Align contributions and benefits to enhance (the) long-term actuarial balance of the NIS". The NIBTT is currently in the planning stages of developing the next strategic plan for five (5) years, 2020 to 2024. Completion of this plan is anticipated by the first quarter of the calendar year 2019. The plan will consider the NIBTT's on-going discussions with the

Ministry of Finance on the sustainability of the fund but cannot be fully implemented without their support.

The long-term sustainability of the Fund can only be addressed by policy decisions and legislative amendments and thus require the active involvement of the Ministry of Finance. Since 2015, the NIBTT has met with the Minister of Finance on several occasions and has submitted various correspondences regarding the way forward for the long-term sustainability of the fund. The most recent correspondence sent to the Minister of Finance was dated October 8th, 2018.

- B. The Ministerial Response to this report addresses the policy position of the Ministry of Finance on the recommendation for the automatic annual indexation of maximum insurable earnings and benefit amounts as set out in the 9th Actuarial Review. For example, is the Ministry of the view that such a policy should be agreed by Parliament and that thereafter the indexation should be implemented every year without any further Ministerial or Parliamentary input?*

The automatic adjustment of the system's parameters, namely, the Maximum Insurable Earnings (MIE) and the benefit amount were to be driven by changes in wage growth and the level of inflation, according to the 9th Actuarial Review. Such indexation will remove both Ministerial and Parliamentary input. The implementation of automatic adjustments to benefit parameters should not be done in isolation, especially in the face of the sustainability challenge currently facing the NIS.

The Ministry of Finance has been in discussion with the NIBTT in formulating the best way forward for the implementation of the automatic annual indexation of maximum insurable earnings and benefit amounts. However, the current economic climate does not favour an automatic implementation as the correlation between wage growth and the level of inflation remains skewed.

The Ministry of Finance along with NIBTT and other key stakeholders will continue to engage in discussions and a recommendation to implement this measure will be advanced by the NIBTT at a future date.

- C. The NIBTT shall submit, two (2) months after this Report is laid in either House of Parliament, a status report on its preparatory activities related to proposed incremental increase in the retirement age from 60 to 65. This report should include:*
- i. Projections of the size of the NIF relative to increasing the retirement over a shorter period of time;*
 - ii. A clear articulation of NIBTT's way forward given the projections;*
 - iii. The active steps being taken to urge the Government and the relevant stakeholders to ensure the implementation of the increased retirement age; and*
 - iv. The timeline for engaging the Government and stakeholders in respect of item (iii) above.*

The 10th Actuarial Review which has recently been completed, analyses the impact of implementing an increased retirement age for a full pension from age 60 to 65 over the shorter periods of 10 and 20 years respectively. This report will be made publicly available after it is laid in Parliament.

Since 2017, the NIBTT has actively engaged nineteen (19) stakeholder groups including mainly business associations, Chambers of Commerce and Labour Unions regarding this specific reform measure. The NIBTT is in the process of developing a comprehensive communication plan which will target expansion of the public education campaign to highlight the sustainability challenge currently facing the NIS.

Since September 2015 representatives of the NIBTT have been meeting with the Minister of Finance to present the findings of the 9th and 10th Actuarial Review. Additional information regarding international trends, purpose and impact of this measure are currently being collated for submission to the Ministry of Finance, along with other requested information related to key reform measures.

The NIBTT intends to continue meeting with all stakeholder groups and the wider population, specifically to discuss the 10th Actuarial Review once it is laid in Parliament and becomes a public document.

- D. That the NIBTT collaborate with the Ministry of Finance with a view to enacting the legislative amendments required to increase the NIBTT's foreign investment limit from 20 percent to 40 percent.*

By way of the First Schedule (Amendment) Order 2018 signed by the Honourable Minister of Finance on August 28, 2018 and published by way of Legal Notice No. 132 of 2018, the NIBTT's overseas investment limit was increased from 20% to 30%. A number of other proposals for amendments to the First Schedule of the Act, including further increasing the overseas investment limit to 40% and expanding the number of jurisdictions in which overseas investments are permitted, have been submitted by the NIBTT to the Minister of Finance and are receiving the active consideration of the Ministry of Finance.

The NIBTT will continue to closely follow up and collaborate with the Ministry of Finance to advance all submitted proposals for amendment to the First Schedule and to recommend further appropriate amendments which may arise from time to time.

Objective 3: To examine the Investment Policy of the National Insurance Board of Trinidad and Tobago

At point 59 the Committee recommended that:

- A. In the Ministerial Response to this report, the NIBTT (in collaboration with the Ministry of Finance) must provide a status report on the progress made in recovering the debt owed by the CLICO Investment Bank.*

Background:

Over the period September 2008 to January 2009, the NIBTT deposited sums of money with Clico Investment Bank Limited (CIB) as Investment Note Certificates (INC). In November 2009, legal action was initiated by the NIBTT due to breach on the part of CIB claiming the sums of US\$102.51Mn and TTS\$46.49Mn. On September 27, 2011, judgment was awarded in favour of the NIBTT in the sums of both claims with interest at the rate of 6% per annum from the dates of maturity of each deposit to the date of judgment.

On or about October 2011, CIB was placed in compulsory liquidation and Deposit Insurance Corporation (DIC) appointed Liquidator.

By letters dated July 31, 2017, the DIC acknowledged and admitted the NIBTT's claims up to date of appointment of the Liquidator (October 17, 2011) as follows:

- TTS\$45.20Mn and TTS\$6.58Mn principal and interest respectively; and
- US\$99.65Mn and US\$14.94Mn principal and interest respectively.

DIC also advised that these amounts have been admitted by the Liquidator and are listed among the other unsecured creditors of Clico Investment Bank Limited – In Compulsory Liquidation for which settlement can take place only after the secured creditors have been settled. In light of this, the NIBTT has adopted a prudent approach and maintained the full provision on this debt established in 2013.

Recent Update:

By letter dated April 18, 2018 the DIC advised that, pursuant to the Order of the High Court (CV2010-01442) dated January 25, 2018, the Liquidator has been ordered to:

- i. Pay liability instruments interest at a rate of 6% per annum to those creditors previously entitled to a contractual rate of more than 6% per annum, and to maintain the original rate where that rate of interest was less than 6% per annum, up to the date of the Winding-Up Order namely, October 17, 2011; and
- ii. Convert to Trinidad and Tobago Dollars all foreign currency instruments as at the date of the Winding-Up Order namely, October 17, 2011 and to make any and all dividend distribution in Trinidad and Tobago Dollars.

By letter dated April 25, 2018 the DIC advised that pursuant to a majority vote at a Meeting of Creditors of Clico Investment Bank Limited - in Compulsory Liquidation (CIB-ICL) on January 06, 2018, an Order of the Court dated January 25, 2018 sanctioned an interim/initial distribution payable in specie and cash.

In this regard, the Creditor's Statement provided with DIC's letter dated April 18, 2018, detailed NIBTT's outstanding claim as TTS\$805.25Mn. Based on the first dividend distribution pay out of 50 cents per dollar, on May 01, 2018 an amount of TTS\$358.18Mn was received and a second payment on May 14, 2018 to the value of TTS\$46.38Mn was also

recovered totalling TT\$404.55Mn or 50.24% of NIBTT's outstanding claim. The NIBTT remains committed to exhausting all efforts to recover this debt.

B. The Ministerial Response must include a status update on the feasibility studies relative to the NIBTT's real estate investments including the Riverwoods Housing Development Project. This status update should include details of:

i. the cost of undertaking these feasibility studies;

These studies are estimated to cost TT\$1,350,996.00 (VAT exclusive)

ii. who conducted or has been designated to conduct these studies;

This contract was awarded to WSP Caribbean Limited

iii. the timeframe for completion (should the studies be in progress).

The contract was executed on September 07, 2018 and based on the agreed timelines, all feasibility reports are expected to be submitted to the NIBTT on or before March 2019.

C. The Ministerial Response must provide the Parliament with specific details on the type, location and value of some of the new or existing foreign securities the NIBTT intends to invest in should the 20% increase in the foreign investment limit be approved.

The NIBTT will continue to invest in a range of foreign investments such as internationally listed equities, international Eurobonds through specialized fund management services of international equities via its foreign fund managers. The specific details (such as type, location, value limits) relating to these new foreign securities will be guided by the NIBTT's Investment Policy and the First Schedule of the NI Act.

As at June 30, 2018, the NIBTT on-boarded four (4) foreign equity fund managers (Allianz Global Investors, Goldman Sachs, CIBC Bank and Trust (Cayman) Limited and BlackRock), with a collective market value of TT\$3.43Billion.

The NIBTT has mandated all the international equity fund managers to abide by specific investment guidelines. Each equity fund manager is governed by a unique mandate and performance is measured against a mutually agreed benchmark that complements their strategy. Highlights of the guidelines in general categories included in the mandates for each manager are presented below:

i. Geographic Allocation

Mandates are restricted to investments in permissible domiciles as per the First Schedule of the National Insurance Act.

ii. Non- Permissible Investments

Derivatives for any purpose other than hedging of currencies; Margin Purchases and Short Sales.

iii. Concentration Limits

The investment in any single company shall not exceed 5% of the portfolio. The manager would not purchase more than 10% of the outstanding stocks of any one company for the portfolio.

iv. Eligible Currencies

Mandates are restricted to investments in a currency from a permissible domicile as per the First Schedule of the National Insurance Act.

As at June 30, 2018, Foreign Investments accounted for 19% of the portfolio while local investments constituted the remaining 81%.

INTERNATIONAL HOLDINGS	MARKET VALUE AS AT JUNE 30, 2018	% OF TOTAL PORTFOLIO
Foreign fund managers	\$3,429,345,675	13.02%
International equities & mutual funds	\$440,121,702	1.67%
International bonds, cash & cash equivalents	\$1,078,498,863	4.10%
Total	\$4,947,966,240	19%

D. *Given that real estate investments are a potentially contentious element of the NIBTT's investment portfolio, we recommend that the NIBTT's Investment Policy Statement be modified with immediate effect to include a dedicated section on real estate investments.*

The approved Investment Policy Statement of the NIBTT 2017/2018-2021 includes a target real estate asset allocation and allowable range as follows:

OVERALL PORTFOLIO	CURRENT ASSET ALLOCATION As at June 30, 2017	TARGET ASSET ALLOCATION As at June 30, 2021	ALLOWABLE RANGE
Real Estate	1.41%	0.00%	0% - 2%

The results of the Highest and Best Use feasibility study mentioned in item 59 (B) of the Fourth Report, is expected to guide the investment decision-making of the existing properties held by the NIBTT. Further to which, the overall 3-year real estate investment strategy would be governed by the guidelines of the First Schedule of the National Insurance Act and the approved Investment Policy Statement.

Additionally, all recommendations made by Management are subjected to review by the Investment Committee – a tripartite Committee established under section 24(1) of The Act – and then by the Board of Directors, if the participation amount exceeds TT\$100Mn. Recent

changes to the Governance include that all real estate transactions must be approved by the Board regardless of transaction size.

Objective 4: To understand the trends in income and the relationship to the payment of benefits

At point 82 the Committee recommended that:

A. The Ministerial Response to this report should include a status update on:

- i. the efforts made by the NIBTT to employ suitably qualified additional officers for its Compliance Department. This report should also include expected timelines for the recruitment of these officers, the training and orientation strategy and the projected timeframe for the new recruits to assume duties;*

The NIBTT has and is in the process of conducting recruitment exercises to ensure that the full approved staff complement is in place in the shortest possible time. This initiative continues to be constrained by the market availability of suitably qualified and skilled personnel as well as the compensation level set for the position.

Assessments are currently in progress and are expected to be completed by the end of October 2018. The on-boarding process is comprehensive and includes orientation to not only the organization and the operations of the Insurance Division, inclusive of recoveries and online payments but shadowing experienced Compliance Officers in varying regions over a six-month period. There is also technical training facilitated by subject matter experts from Legal Services, Finance and Accounting and externally on Determining Employer/ Employee Relationships, Understanding Financial Statements and Debt Recovery.

Appointments were made in July and September 2018 and are ongoing for assumption by December 2018.

- ii. The progress made by the NIBTT in developing a strategy for including the self-employed in the NIS.*

Cabinet Minute No. 650 dated February 27, 2014 re-established the High Level Working Committee (HLWC) comprising representatives from NIBTT, the then Ministry of Finance and the Economy and Ministry of the People and Social Development. The mandate of the Committee was to review the proposals for the incorporation of Self Employed Persons (SEP) into the National Insurance System.

The Report of the HLWC and addendum were submitted to the Ministry of Finance and the Economy on January 13, 2015 and March 23, 2015 respectively. The main recommendations of this Report were as follows:

- o GORTT co-payment of NI contributions for eligible SEP whose net earnings are less than \$3000 (as determined by the NIBTT), will be provided for a period of 5 years from the date of commencement of SEP NI coverage on the following basis:

- 100% of the weekly contribution due for Year 1;
 - 66.67% (two-thirds) of the weekly contribution due for Year 2;
 - 50% (one-half) of the weekly contribution due for Years 3 and 4; and
 - 33.33% (one-third) of the weekly contribution due for Year 5;
- The gradual reduction in GORTT co-payment of contributions will encourage low income self-employed persons to become wholly responsible for payment of their NIS contributions after the first 5 years of the implementation of the system for SEP NI coverage;
 - Future Actuarial Review recommendations will be the basis for any further requests by the NIBTT for GORTT support for the co-payment of NI contributions for eligible SEP beyond the initial 5-year period;
 - GORTT 100% funding of age credits for eligible SEP;
 - GORTT's commitment to mandatory participation of SEP in the NIS, will be accomplished through mandatory co-operation between the NIBTT and specified Ministries, the Tobago House of Assembly (THA), state enterprises and statutory bodies, and such other state agencies and bodies as deemed relevant to the objective of enhancing the number of SEPs who comply with the relevant sections of the NI Act and regulations;
 - GORTT meeting any deficiencies in the assets of the SEP NI fund from moneys advanced by Parliament.

Legislative Amendments

- Drafts of the National Insurance (Amendment) Bill 2014, Self-employed Persons Registration, Contribution and Benefits Regulations to incorporate self-employed persons into the NI system were developed in discussions with the NIBTT's Legal Department.
- These drafts were reviewed and confirmed in-house by the Self-employed Project Team and the Legal Department in consultation with the Office of the Chief Parliamentary Counsel (CPC).
- The draft Legislative documents were submitted to the CPC on January 28, 2014 as part of the pre-Legislative Review Committee (LRC) process. Discussions were subsequently held between representatives of the NIBTT (Legal Department and Project Team), the CPC and their representatives and a representative of the Treasury Solicitor's Office.
- The CPC indicated that recommendations arising from discussions with the Ministry of Finance and Economy and the Ministry of People and Social Development (HLWC) should also be legislated. These legislated recommendations addressed the following:

- Co-payment of contributions for low-income self-employed persons; and
 - Co-funding of age credits for older self-employed persons;
- The pre-LRC phase was followed by an initial LRC phase during which the NIBTT made numerous oral status reports on the proposed legislative changes. It was anticipated that this would be followed by a full presentation to the LRC with the NIBTT providing its justifications for the main features of the SEP NI system design and the enabling legislative changes which were required.
 - Debate of the NI Bill in Parliament was anticipated to follow the LRC phase. In this regard the NIBTT's team was advised by the office of the CPC that there are a number of other Bills scheduled to engage the Parliament's attention.

Current Status

- The Ministry of Finance is in the process of submitting a Note to Cabinet for the re-establishment of the HLWC for the incorporation of SEP into the NIS.

Objective 5: To examine plans to increase contribution rates and measures taken to reduce the cost of administering the scheme

At point 92 the Committee recommended that:

- A. The NIBTT collaborate with the Ministry of Labour and Small Enterprise Development with a view to sensitizing employers of domestic workers of their obligations under the National Insurance Act;*

The NIBTT has identified a number of agencies/Ministries including the Ministry of Legal Affairs (MLA), Board of Inland Revenue (BIR), Central Statistical Office (CSO) and the Ministry of Labour and Small Enterprise Development (MoLSED), with whom it will hold discussions regarding the exchange of data related to businesses/employers as part of its operational plan for maximizing contribution income. Ultimately these discussions which will include domestic workers should result in the establishment of Memoranda of Agreement between the NIBTT and these agencies/Ministries.

Preliminary discussions have been initiated with representatives of the Ministry of Labour Inspectorate Department, aimed at fostering a collaborative relationship.

Additionally, the NIBTT acknowledged that the National Union of Domestic Employees (NUDE) has a useful role to play in educating its members on their rights and obligations under the NI Act, thereby ensuring that their respective employers are in compliance. Discussions with NUDE were initiated in April 2018 and are ongoing.

- B. Discussions should be held between the NIBTT and the MoLSED regarding the feasibility of amending the Industrial Relations Act Chapter 88:01 to recognise a domestic worker as a 'worker'. This unification of the provisions of the Industrial Relations Act and National Insurance Act may provide more robust protection to this class of employees against unfair treatment.*

The NIBTT will engage the MoLSED as much and as far as possible to give this recommendation fullest consideration. This includes seeking an audience to discuss the feasibility of domestic workers being considered workers under the Industrial Relations Act (IRA) such that there is unification between the provisions of the NI Act and the IRA and determining how this can better protect this class of workers.

- C. A Register of employers of domestic workers should be developed and maintained. Additional Registers of persons employed in the "informal economy" and ought to have National Insurance coverage should also be developed and maintained by the NIBTT.*

The NIBTT's database provides data regarding registered domestic employers and by extension domestic workers. It was noted that the development of registers on persons employed in the informal economy will be a challenge given that these persons are not required to register under the NI system and are therefore unknown to the NIBTT. The NIBTT proposed that development of such a register will require collaboration amongst agencies/ministries/departments including the CSO and MoLSED.

The following information regarding domestic employers is noted:

- The NIBTT's database reflects that there are over 6000 domestic employers registered within the NI System with 168 newly registered domestic employers for the FY 2018 (July 01, 2017 – June 30, 2018);
- A first-time audit is conducted with these newly registered domestic employers in determining the accuracy of the registration information submitted, in particular the number of persons employed within the household and the names of such persons;
- Domestic employers are also advised of their obligations and responsibilities under the NI Act and are provided general information on the NI system including benefits for which their employees may become eligible. Periodic audits are conducted on these employers subsequent to the conduct of the first-time audit to ensure continued compliance;
- Challenges have been experienced in accessing domestic employers who reside in gated communities. Other domestic employers have proven to be evasive and un-cooperative;
- Consideration is being given to the development of a brochure on employer compliance;

D. That an amnesty or waiver period be granted to the employers of domestic and agriculture workers to permit those employers who are willing to pay the arrears of contributions to do so without penalty/sanction.

The matter of a general amnesty or waiver to employers (including domestics) recently received the consideration of the Board of Directors of the NIBTT and it was agreed that this matter should not be pursued at this time. No specific consideration however was given in the context of solely domestic and agricultural workers. In considering this matter, the Board noted the following:

- The amendment to the NI Act to waive penalty and interest on NI contributions due prior to September 05, 2011 and paid by June 30 2012 was effected on February 29 2012. Special conditions however applied to this waiver including the application of contributions due for periods on or before September 05, 2011 where such contributions were paid between October 10, 2011 and June 30, 2012.
- There continues to be several requests made by employers for the waiver of penalty and interest. These penalties and interest would have accrued as a result of employers' failure to remit accurate and timely contributions or in instances where cheques submitted by employers were subsequently dishonoured. The granting of an amnesty can in this regard be seen as 'rewarding' defaulting employers.
- Consideration must be given to the perception which can be created amongst employers regarding the granting of a waiver of penalty and interest (special conditions notwithstanding) to their counterparts who have failed/refused to fulfill their statutory obligations. This can ultimately result in more employers becoming non-compliant by choosing to withhold contributions and pay at a later date. It should also be noted that a measure such the granting of a waiver of penalty and interest would be applicable to all employers registered under the NIS, inclusive of the employers of domestic workers.

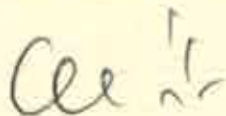
E. The NIBTT and the Ministry of Finance shall reconvene the meetings of the High Level Working Committee and shall submit within three months of the presentation of this report, a report on its activities/work particularly on the inclusion of self-employed persons in the National Insurance System.

The Cabinet has re-constituted the HLWC for the incorporation of SEP into the NIS.

F. As a means of improving its ability to exercise effective oversight over state owned/controlled entities such as NIBTT, the Ministry of Finance must increase the technical capacity of staff assigned to monitor these entities. In this regard, training and staff development interventions should be directed at employees of the Investments Division, Ministry of Finance, with a view to equipping them with the tools needed to effectively scrutinise the state enterprise sector.

The staff within the Investments Division, Ministry of Finance, who have been assigned the responsibility of monitoring State Enterprises have benefitted from capacity building exercises that included training in *Corporate Governance* by Syntegra Change Architects Limited and *Performance Monitoring of Statutory Bodies* by CARTAC. Budgetary and time constraint have limited the Ministry's ability to completely provide capacity building opportunities for these officers.

Yours sincerely

A handwritten signature in black ink, appearing to be 'A. L. B.', written in a cursive style.

Minister of Finance