

PROCEEDINGS RESUME ON 11 MARCH 2002

CHAIRPERSON: Good morning ladies and gentlemen. This is the morning session on 11 March of the Commission. Our witness today is Mr Bruce-Brand of the South African Reserve Bank. Your full names Mr Bruce-Brand?

5 ALEXANDER MCGREGGOR BRUCE-BRAND: d.s.s.

CHAIRPERSON: Please be seated. Mr Potgieter?

EXAMINATION BY MR POTGIETER: Mr Bruce-Brand you prepared a CV which is in the bundle in front of you. That is SARB6 on page 25. Would you please summarise your CV for the commissioners? --- Mr Chairman, I am in the service of the South African Reserve Bank Exchange Control Department situated at 38 Church Square in Pretoria. I joined the South African Reserve Bank on 1 January 1972 commencing work in the Exchange Control Department where I have worked ever since. I obtained a B.Com Degree from the University of Pretoria in 1973 and as far as my career is
10 concerned, I was appointed as a manager in April 1987; assistant general manager in April 1990 and then head of the department and subsequently general manager. I have worked in all the various technical areas in the department other than the investigations area *per se*. I have also been called upon by the International Monetary Fund to assist with two admissions on
15 exchange controls to Russia in July in 1999 and Cuzakstan in November 2001.
20

Mr Bruce-Brand, before you .. you prepared a statement in this case. Is that correct? --- Correct.

A written statement. Before you continue to read your statement into
25 the record, there are six bundles handed in by the Exchange Control Department. Is that correct? --- That is correct.

They have been marked SARB1 up to 6 and we will refer to them as SARB1, SARB2, etcetera. I expect that when you deal with your statement, you will probably only refer to SARB6 which bundle contains most of the documents that you will be referring to. There are also a few documents in
30 SARB1 that you will refer to. Will you then turn to page 3 of SARB6 and continue to read your statement into the record. I will interrupt you from time to time and ask you to explain certain aspects in your statement. --- If I can then start off with the historical background.

35 "Historical background: Although South Africa has had exchange control since 1939, the current governing legislation is set out in Exchange Control Regulations promulgated in 1961 in terms of the Currency and Exchanges Act (Act 9 of 1934). A copy of the regulations are contained at pages 26 to 48 of SARB6 to which I shall refer as SARB6 and which is
40 attached to this statement.

Exchange controls in South Africa were applied more stringently during 1985 when international sanctions, trade boycotts, disinvestment campaigns and the withdrawal of loan funding to South Africa exerted severe pressure on the balance of payments and the domestic economy as a whole.

45 At that stage certain restrictive measures applied to a few current account transactions while the financial rand system and the capital account transactions were reintroduced. Any output transfer funds other than normal trade related transactions was subject to prior approval by the exchange control authorities. Where necessary these transfers were also subject to
50 certain limits. The 1985 developments also resulted in the debt standstill arrangements."

Before you continue, in paragraph 1 on page 3 of SARB6, the bottom

of the page, there is a reference to pages 26 to 40 of SARB6. The reference should be pages 26 to 48. Is that correct? --- That is correct.

Yes, will you then continue with paragraph 3? ---

"As South Africa moved out of the sanctions era, the new government was able to address the globalisation of exchange controls. The first major event was the abolition of the financial rand system in March 1995. The ongoing removal of (indistinct) is more fully described in paragraphs 12 to 20 below.

Responsibility for exchange control policy has throughout its existed remained vested with the Minister of Finance who delegated certain powers and functions to the Exchange Control Department to the South African Reserve Bank to which I shall refer to as "The Bank" who implements and administers such policy on behalf of the government. All policy decisions in this regard is taken by the Minister of Finance and the Bank therefore only acts in an advisory capacity to government relating to decisions on exchange control policy.

Exchange control does not only apply to South Africa but also to the common monetary area region which includes Lesotho, Namibia and Swaziland.

Mr Chairman, if I may turn to the legal framework of exchange control. As an introduction it is necessary to distinguish between the following:

"1. Currency and Exchanges Act: The Currency and Exchanges Act and more specifically section 9 thereof, is the foundation of exchange control in South Africa. Section 9(1) of the Act provides that:

"The governor general (the president) may make regulations in regard to any matter directly or indirectly relating to or affecting or having any bearing upon currency, banking or exchanges."

And the reference to the Act is, it is Act 9 of 1933. Is that correct? ---

That is correct.

"2. Exchange Control Regulations: The current set of Exchange Control Regulations were promulgated on 1 December 1961 and amended from time to time. In terms of the Exchange Control Regulations, the control over South Africa's foreign currency, reserves as well as the accruals and spending thereof, is vested in the treasury. The treasury is defined as:

"In relation to any matter contemplated in these regulations means the Minister of Finance or an officer in the Department of Finance (now the National Treasury) who, by virtue of the division of work in that department, deals with the matter on the authority of the Minister of Finance."

Mr Bruce-Brand, the Exchange Control Regulations are in SARB6 on pages 26 to 48. Is that correct? --- That is correct, yes.

"3. Orders and Rules: The Minister of Finance issues orders and rules under the Exchange Control Regulations. The current set was published on 1 December 1961 and amended from time to time. The orders and rules contained various orders, rules, exemptions, forms and procedural arrangements. A copy of the order and rules are controlled at pages 41 to 52 of SARB1."

MS QUNTA: Pages 41 to? --- 52.

MR POTGIETER: Is the reference to 108 to 130 incorrect? --- I think that is volume 6.

The correct reference is SARB1, pages 41 to 52. --- If I can then move to "Delegation and Assignment".

"Delegation and Assignment: The Exchange Control Department of the Bank is responsible for the day to day administration of exchange control.

The Minister of Finance has delegated to the governor, the deputy governor, the general manager of the department as well as various other officials in the department, the powers, functions and duties assigned to and imposed on the Treasury under the Exchange Control Regulations to such delegations are set
5 at the foot of pages 49 to 50 or SARB6."

Mr Bruce-Brand, if you turn to volume 6, pages 49 to 50, there is a document there headed "Delegation and Assignment". Who is the author of this document? --- It is an internal document prepared in the department by one of my colleagues.

10 Who is he? --- Mr Charles van Staden.

What is his position? --- He is my deputy general manager.

And will you read to the Commissioners the conclusion on page 50 of SARB6 in paragraph 1.7? --- Page 50, paragraph 1.7:

"Exchange Control Department of the South African Reserve Bank is
15 therefore responsible for the day to day administration of exchange control in the Republic of South Africa including the investigation into alleged contraventions of such regulations."

And do you agree with the content of this document on pages 49 and 50? --- Yes.

20 Yes, will you then continue with paragraph 6.5? --- 6.5 under the heading "Authorised Dealer":

"Authorised Dealer: The Minister of Finance has also appointed certain banks to act as authorised dealers in foreign exchange which gives them a right to buy and sell foreign exchange subject to conditions and within
25 limits prescribed by the Exchange Control Department of the Bank. Authorised dealers are not the agents of the Exchange Control Department but act on behalf of their customers."

And will one find a list of the authorised dealers in the exchange control rulings in SARB1, pages 62? --- That is correct, yes.

30 You may continue. --- If we then turn to the exchange control rulings.

As I said authorised dealers in foreign exchange are appointed by the Minister to deal in foreign exchange and the most important document for them is the Exchange Control Rulings. The Exchange Control Rulings to which I will refer to as "The Rulings", copies of which are contained in
35 SARB1, pages 59 to 279, and these rulings are issued by the Exchange Control Department and contain certain administrative measures as well as the permissions, conditions and limits applicable to transactions in foreign exchange which may be undertaken by authorised dealers. The Rulings which is therefore the handbook of the authorised dealer community, are
40 amended from time to time by way of exchange control circulars to which I will refer to as "The Circulars".

The Circulars that you are referring to, those Circulars are in SARB2 right up to SARB5? --- That is correct.

Four bundles full of these circulars? --- That is correct.

45 Yes. ---

"The Rulings and Circulars are made available to all authorised dealers and although for their use only, are not secret and the contents thereof made available to the public.

Applications for foreign exchange received by authorised dealers from
50 their customers are dealt with by them if the applications fall within the parameters outlined in the Rulings without reference to the Exchange Control Department.

And the reference there to rulings, would be the Rulings read with the Circulars? --- As amended by the circulars from time to time.

"The Exchange Control Manual: The Exchange Control Manual was first issued by the Bank in October 1990 to assist authorised dealers in foreign
5 exchange and more particularly their customers and other interested parties by providing a general understanding of the purpose, scope and operation of the exchange control system in the Republic and the common monetary area which I shall refer to as "The CMA" and which is dealt with in greater dealer
later on. The manual merely serves as a general guideline and does not
10 replace or supersede Exchange Control Regulations, Orders, Rules nor the norms and policies applied by the Exchange Control Department from time to time."

Mr Bruce-Brand, the Exchange Control Manual there is a reference to it later on but this the commissioners will find in SARB6, pages 51 to 157. Is
15 that correct? --- That is correct.

Now before you continue, you have now referred to the Currency and Exchanges Act, the Exchange Control Regulations, Orders and Rules, Exchange Control Rulings as amended by the Circulars from time to time and then I have noticed that in paragraph 6.7.1 and further, you also referred
20 to norms and policies. Will you explain norms and policies? Where would one find them? Are they written down somewhere or not? --- The norms and policies are laid down by the Minister of Finance as I explained earlier but in the refining process, this is the internal norms and policies applied by the department when we adjudicate on applications.

25 Are they written down in a document or not? --- In some cases yes. In some cases not necessarily.

Then continue with 6.7.2. --- I am still under the "Exchange Control Manual":

"The publication of the Exchange Control Manual has served a useful
30 purpose of conveying to, creating the general public a proper understanding of the policies and norms applied by the Exchange Control Department. The Exchange Control Department continuously updates the Exchange Control Manual to reflect current policies and norms. Changes to policies and norms are regularly conveyed and communicated to the authorised dealers through
35 the Circulars as I have mentioned, personal interviews with applicants, and always accompanied by a representative of the authorised dealer concerned.

The policies and norms are furthermore conveyed, discussed and communicated to various professional bodies such as the association of Law Societies or the SAICA, South Africa Institute of Chartered Accountants, is an
40 additional examine.

The Exchange Control Manual has been published and is available to all authorised dealers in foreign exchange as well as to various interested parties and for the Commission's purposes the manual is contained at the pages we have already referred to. The manual is also available on the South
45 African Reserve Bank's website."

If I can then turn, Mr Chairman, to the CMA, the Common Monetary Area.

"The Common Monetary Area consists of South Africa, Lesotho, Namibia and Swaziland. In terms of an agreement between the Ministers of
50 Finance of the countries concerned, there are no foreign exchange restrictions between the members of the CMA and they form a single exchange control territory. Although each of the member countries has its own exchange

control authorities as well as its own acts or regulations and rulings, their application of exchange control must in terms of the CMA agreement be at least as strict as that of South Africa. Accordingly investments and transfers of funds or goods from South Africa to other CMA countries do not require the approval of the Exchange Control Department.

Applications to the Exchange Control Department and the norms applied in adjudication: Applications by customers and authorised dealers in foreign exchange which fall outside the scope of the rulings, must be referred to the Exchange Control Department for adjudication.

10 Before explaining how the adjudication process takes place, it is necessary to point out that all exchange control policies determined by the Minister of Finance. The application of the policy is further refined in consultation with the governors of the bank. The Exchange Control Department then develops the final detailed policy and norms which are applied.

15 Applications are adjudicated upon by the department within the parameters of the detailed policy and norms. Each application is dealt with on its own merits, taking into account the information on record with the department. The records kept by the Exchange Control Department in fact date back to 1939. A decision of the Exchange Control Department including any conditions that are applicable, is furnished in writing to the authorised dealer and conveyed by it to the applicant. The authorised dealer has the responsibility of insuring that the execution of the transaction complies with any terms and conditions laid down by the Exchange Control Department."

25 Will you just stop there? Apart from the authorised dealers responsibility to ensure that the execution of the transaction complies with the terms and conditions laid down by the department, does the department itself check on the authorised dealers to ensure that the terms and conditions are the Exchange Control Department's approval or response are being complied with? --- As part of the ongoing inspection process of the department, yes we do get around to many of the branches and centres in the country and then part of our inspection process would entail checking that the authorised dealers complied with the terms and conditions laid down by us.

35 But you do not check all of them? It is spot checks .. (intervenes) --- It is basically spot checks, yes.

Yes, you may continue. --- 6.9.5:

"In certain warranted circumstances such as unpublished market sensitive transactions, the Exchange Control Department will entertain applications directly from the involved party."

40 Mr Bruce-Brand, will you explain perhaps by way of an example under these circumstances, would the authorised dealer be excluded or would the authorised dealer be present? --- In certain instances yes, the authorised dealer could be excluded in view of the sensitivity of the nature of the information. We may for example in a case where let us say an insurance company owns shares in an authorised dealer and it involves that particular transaction, then obviously on a sensitivity and a confidentiality basis, the authorised dealer could be excluded.

45 But in some instances the authorised dealer would be present? --- Yes, that is correct.

Yes, 6.9.6? ---

"Should an approval of an application be refused, a resubmission is

possible and a more senior official will review the application. In certain instances the department will grant an interview with the applicant and the authorised dealer where the policy and norms would be explained. Should additional information be required to enable the Exchange Control Department to consider the application, it is called for. The policy and norms applied by the department, also become known to the public through the authorised dealers who built up a databases of such information based on their experiences during interviews and interviews between the department and their customers and obviously the reply that we give to applications as well."

10 Have you finished with 6.9.7? --- Yes.

Before you continue, it appears as if two of the important paragraphs of 6.6.5 read 6.9.1 as I understand the position, Mr Bruce-Brand, there are two sets of circumstances here. Where applications for foreign exchange received by authorised dealers from their customers fall within the parameters outlined in the rulings as amended by the Circulars, the authorised dealers will deal with these applications themselves. Is that correct? --- That is correct.

And it is only where, that is stated in 6.9.1 where the applications by customers of authorised dealers fall outside the scope of the rulings read with the circulars where they will then go directly to the Exchange Control Department, file the application there and you will then respond dealing with it in terms of your policies? --- That is correct.

Will you then continue on page 10 under the heading "The Purpose of Exchange Control"? ---

25 "The Purpose of Exchange Control:

1. The purpose is to ensure the repatriation into the South African banking system of all foreign currency acquired by residents of South Africa whether through transactions of a current or of a capital nature.

2. To prevent the loss of such foreign currency resources through the transfer abroad of real financial capital assets held in South Africa."

Is it held in South Africa by residents? --- Correct.

"3. To effectively control the movement into and out of South Africa of financial and real assets, money and/or goods while at the same time not interfering with the efficient operation of the commercial industrial and financial systems of the country."

Could you explain or elaborate this paragraph? One reads it for the first time and you know it seems as if there is a contradiction contained in here. --- Well, to effectively control in the sense that everything will be recorded and reported to us, one way or the other, without each and every movement of money or goods necessarily being either physically inspected or dealt with particularly by the Exchange Control Department. It would mean that we would hold up the efficiency of the country if we are to delve into the detail of each specific transaction.

"The balance of South Africa's foreign currency is known as the country's foreign exchange reserves which is in the main earned by means of foreign borrowings as well as the export of goods including gold and services abroad. These foreign exchange reserves are mainly utilised for the payment of goods and services imported into the country and for the servicing of the country's foreign debt. Foreign exchange reserves are essential for any country such as South Africa and a lack thereof results in the country concerned not being able to develop promptly.

It is important that the available foreign exchange reserves are applied

in the best interest of the country. This means that it is essential that each time that any of the foreign currencies reserves are utilised, equivalent value in the form of goods and services, debt reduction or approved foreign assets is received therefore."

5 Mr Chairman, if I may now turn to the "Removal of Exchange Controls in South Africa".

"With the reintegration of South Africa in the international community from 1994, the exchange control policy of South Africa received considerable attention by government. The non-economic factors that led to the outflow of
10 capital from South Africa during more than 30 years, rapidly disappeared especially after the announcement of the election of South Africa's first democratic government and national unity. Diverse opinions, both locally and internationally have, however, been expressed about the removal of exchange controls which had been widely debated in public. It has been argued by
15 some that there may be disadvantages inherent in applying exchange control measures which, inter alia, include the following: ... "

And what you are expressing here are not necessarily your own views. You are setting out disadvantages perceived by some people? --- That is correct, yes.

20 "1. Controls discouraged, inward foreign investment into South Africa.

2. To administer exchange controls, the bank and authorised dealers in foreign exchange.

3. To employ a large number of staff and considerable cost.

25 4. Exchange controls inhibit the development of domestic corporations and institutions by restricting international expansion.

5. Exchange controls prevent residents from hedging risks in other currencies and countries by exercising private portfolio diversifications through the acquisition of foreign assets.

30 After 1994 the South African government decided on a gradual approach to elimination of exchange controls rather than a big bang as it is called. A phased approach allowed government more time to implement other policy changes in order to achieve the preconditions necessary for the successful abolition of exchange control."

35 Will you explain this second sentence of paragraph 14? --- Mr Chairman, by way of example the phased approach would give the government time to put other things in place and one can for example look at tax legislation or another example would be banks supervision - regulation pertaining to bank supervision. So rather have some of those in place before
40 you get rid of exchange control in its entirety.

"The government then decided that the logical sequence for the globalisation of exchange controls would be the following:

1. The abolition of exchange control on all current account transactions i.e. import and export of goods and services.

45 2. ... (intervenes)

Has that been done? --- That has been done. I think I will run through the whole lot and then just recap on what is being done.

" 2. The abolition of exchange control on non-residents.

3. Gradually becoming more lenient in the approval of applications for direct foreign investment by South African corporates.

4. Allowing institutional investors to acquire for assets to diversify their total portfolio investment.

5. A progressive relaxation on all other controls on resident individuals.

6. To release emigrants block funds.

Emigrants block funds are those funds or assets of an emigrant to which
5 restrictions have been applied and that the funds are not transferable from
South Africa on a physically controlled authorised dealer.

Mr Chairman, if I maybe can just explain item 15.1 and 15.2 i.e. abolition of
control on current accounts and the abolition of exchange control on non-
residents has been done. 15.3 corporate investment and 14.5 institutional
10 investment, we are in the process and it is an ongoing process as far as that
is concerned. 15.5 aggressive relaxation on controls on residents is also an
ongoing process. What has not yet been looked at is the release of
emigrants block funds.

And you are going to deal with the remaining exchange controls a bit
15 later in your statement? --- That is correct, yes.

"The South African government made good use of the opportunity as
offered over the past years as a result of the subsequent inflows of capital to
globalise its exchange controls gradually. So far certain major steps have
been taken in the process.

20 The Minister of Finance in his budget speeches, budget reviews and
press statements announced a large number of policy changes since March
1995 to date, all of which are contained in the document headed "Policy
changes reached by the Minister of Finance in his budget speeches, budget
reviews and press statements since March 1995 to date" which document is
25 to be found at pages 158 to 211 of SARB6.

In view of those exchange control globalisations that have taken place
since 1994, the authorities gradually became more lenient in their exercise of
discretion and administration of its exchange controls. Leniency in this context
does not imply condoning or overlooking any contraventions."

30 You have to explain more lenient but you say it does not imply the
overlooking of contraventions. --- By way of example in the application of
certain of the rules and regulations particularly Exchange Control Regulation
3(1)(f) which deals with the ability of affected persons to borrow locally in
South Africa. In the years gone by we were very strict in terms of the formula
35 it determined that you could borrow X and X is what you got. Gradually we
became more lenient and would allow facilities greater than that determined
strictly in terms of the formula. Another example would be when we started
allowing SA corporates to invest abroad, they had to demonstrate to us that
South Africa would gain immediate benefit if we approve the investment. We
40 now look at longer term benefits. So the time frame has been extended and
is not as harsh as it used to be.

"South Africa is also part of the Southern African Development
Community which I shall refer to as SADEC and an even more lenient
approach was adopted in respect of transactions with its members which also
45 applies to Africa as a whole and this is evident as you will see later on in the
greater amounts that are available when invested in those countries.

The aforementioned globalisations have also resulted in a substantial
reduction in the staff compliment not only in the Exchange Control Department
but also at the authorised dealers. Details of departmental deductions appear
50 at pages 217 to 227 of SARB6."

Mr Chairman, if I can now turn to the summary of current remaining
exchange controls, the more important remaining exchange controls in South

Africa.

"Policy changes made announced by the Minister of Finance in connection with exchange controls since March 1995 has resulted in a residue of control, the most salient provisions of which are the following:

5 Corporates, foreign investment: Corporates are allowed on a
caucasian to transfer up to 715 million from South Africa for each new and
approved investment in Africa including SADEC provided a longer term benefit
to South Africa can be demonstrated. In respect of investments elsewhere in
the world, corporates are limited to the transfer from South Africa up to 500
10 million and newly approved investment subject to the same criteria. For more
costly investments, corporates may on application raise foreign finance
facilities on the strength of their South African balance sheet provided the
facilities for the minimum period of two years. Corporates are also on
application to the Department allow to utilise their local cash holdings in South
15 Africa to partly finance new investments where the costs of the investment
exceeds the respective amounts of R750 million and R500 million. Such
additional foreign currency transfers are restricted to 10% of the cost of the
investment in excess of the foregoing amounts irrespective of the size of the
transaction. The balance of the finance required must still be raised abroad
20 on the basis outlined in 21.2 above.

Corporates wishing to invest in countries outside the CMA may, in
addition to the foregoing, also apply for permission to enter into corporate
asset or share swop and share placement transactions to acquire for an
investment. The latter mechanism entails the placement of the locally quoted
25 corporate shares with long term overseas holders who in payment for the
shares provide the foreign currency abroad which the South African corporate
then uses to acquire the target investment."

Mr Bruce-Brand, you referred to two concepts in this paragraph
namely corporate asset/share swops and then also the share placement
30 transactions. You explain in 21.1.4 the last-mentioned concept, will you
please explain in the context of this paragraph what you mean when you say
corporate assets/share swop? --- Where for example a South African
company would wish to acquire an investment in a company abroad, a South
African company would give shares in itself to the vendor of the target
35 company. That would be the classical example. 21.1.5 Foreign loans that
is still under the heading of "Corporates":

"All foreign loans from outside the CMA require prior exchange control
approval. Approval is normally granted provided the interest rate charged is
market related and relative to the currency being followed.

40 Institutional investors: Long term insurers and pension funds may on
application acquire foreign portfolio assets up to 15% of their total assets and
registered fund managers up to 15% of their total assets under management
subject to the regulatory framework in which they operate.

45 Unit trusts: Through unit trust management companies may on
application acquire foreign portfolio assets up to 20% of their total assets and
the management subject to the regulatory framework under which they
operate."

In the case of both 21.2.1 and 21.2.2 you have added at the end the
qualification subject to the regulatory framework within which they operate.
50 Will you please explain? --- Pension funds have prescribed avenues in
which certain investments must be held. Long term insurers have similar
constraints under the FSB. Unit trust companies have also certain

prescription that they must retain a minimum cash balance. That is the basic framework that we are referring to. So although they can get a dispensation from an exchange control, they may not override their own regulatory framework.

5 "The foreign portfolio assets may be acquired by transferring foreign currency from South Africa and abroad and such transfers are limited to 10% of the previous calendar year's net cash inflow."

Mr Chairman, then we move on to .. (intervenes)

10 What do you mean when you say net cash inflow? --- If you take unit trust from example the net cash inflow that was put into that unit trust during the calendar year by people acquiring by putting new money into the unit trust.

15 Before you continue if we could just go back to paragraph 21.1.4 where you used the words share placement transactions. What is the difference, if any, between placement of shares and a sale of shares? --- A sale of shares by a quoted South African company would mean that the holder of the shares sold them, the vendor would sold them to the buyer which would be a transaction that takes place on the Johannesburg Stock Exchange on a daily basis, the normal selling and buying of shares. A share
20 placement is where a quoted South African corporate would specifically have its shares placed abroad with the purpose of raising funds abroad and the purpose of raising the funds would be once they have obtained permission is to use those funds to acquire an offshore investment. So it is a structure that is put together for a very specific purpose.

25 But it would again be a sale of shares? --- Well, the shares would be placed in the sense of sale yes in that the parties that take up the shares would have to pay for them. They would pay abroad in foreign currency and then those holders of the shares make available the foreign currency which the South African corporate then uses to buy their target company which we
30 have agreed them buying.

Paragraph 21.3? ---

"Foreign controlled entities, so-called affected persons: South African registered entities who are 75% or more foreign controlled, are restricted in the amount of local financial assistance that they may use. (This is where I
35 alluded earlier on to the more lenient application). Dividend profit income distributions have a freely transferable portion to the percentage shareholding provided the relative distribution will not cause the entity to replace in an overborrowed position in terms of the formula requirements. The details of these formula requirements can be found at pages 222 and 223 of SARB6.

40 As far as individuals are concerned, firstly foreign investment. Individuals may invest up to 750 000 per individual for any purpose outside the CMA provided the party is over 18 years old and a registered taxpayer in good standing.

Foreign loans to individuals: All loans from outside the CMA require
45 prior exchange control approval. Approval is normally granted provided the interest rate is market related and relative to the currency being borrowed.

Travel allowance: R140 000,00 per calendar year for a person 12 years or older. R45 000,00 per calendar year per child under 12 years of age.

Foreign study allowances: R140 000,00 per calendar year per single
50 student. R280 000,00 per calendar year per student accompanied by the spouse.

Holiday travel allowances for students studying abroad: R45 000,00

per calendar year per single student and R90 000,00 per calendar year for a married student accompanied by his spouse.

Gifts and donations to non-residents: R25 000,00 per applicant per calendar year.

5 Maintenance payments to non-residents: R70 000,00 per month to direct family members.

Alimony payments: R7 000,00 per month over and above the amounts ordered by court to beneficiary.

Then as far as emigrants are concerned, persons emigrating to any
10 country outside the CMA, may qualify at the time of the emigration and after all their assets had been brought under the control of an authorised dealer, the following facilities: settling allowance of R400 000,00 per family unit or a settling allowance of R200 000,00 in respect of single persons. In addition a travel allowance applicable to each member of the family unit subject to the
15 limits laid down under the 21.4.3 above and also household, personal effects and motor vehicles to the value of R1 million which may be exported on the form NEP. The balance of their remaining assets are blocked as emigrants blocked assets in South Africa and various restrictions remain on the use of emigrants blocked funds in South Africa."

20 May they remove the proceeds of the blocked assets? --- Provided they remain within their local borrowing restrictions and interest, income, dividend and may be transferred abroad to the emigrants. Under the next heading, Mr Chairman, "Authorised dealers administrative controls":

Import transactions: Payment by an authorised dealer on behalf of
25 South African importers may be affected against certain prescribed documentation which is fully described in the rulings.

Export transactions:

Authorised dealers control the receipt of export proceeds from outside the CMA: Foreign currency proceeds must be sold to an authorised dealer
30 within 30 days from accrual unless such funds are credited to a custom of foreign currency account where they may be retained for a maximum period of 180 days. In respect of all consignments of 55 000 and above, form F178 is completed. Form P is completed in respect of goods exported for which no payment will be received such as the motor vehicle (indistinct).

35 Forward exchange contracts with South African residents: Foreign currency may be sold .. (intervenes)

Before you continue, Mr Bruce-Brand, you are aware of the statement by the governor of .. the statement of 14 October 2001 and that is contained in the expert bundle as well. I will give you the reference later. Would it be
40 correct to say that paragraphs 21.5.3 and 21.5.4 are relevant in the context of that statement by the governor? --- Essentially that is correct.

"Foreign currency may be sold forward to South African Residents provides the facilities are required to cover a foreign ascertained foreign exchange commitment due to a non-resident. Foreign currency may be
45 purchased forward from South African residents provides facilities are required to cover (indistinct) from and payable by a non-resident.

Foreign exchange contracts with non-residents: Foreign currency may be sold forward to non-residents provided that such non-resident counterparties have legitimate South African exposures resulting from an
50 accrual investment or asset denominated in rand."

And perhaps just as an example, Mr Chairman, if an importer has a dollar liability in respect of goods that he is importing, provided that he can confirm

that such a commitment exists and produce the relative documentation, then he can enter into a contract to hedge his exposure. That is the most common type of transaction where forward cover is taken.

The second one would be if a South African has a liability in foreign currency based on a foreign loan he has received and at the end of the day he must be paid the foreign loan in foreign currency and it will then hedge his exposure.

Under the heading "Other":

"Other: Authorised dealers may effect payment on behalf of their clients in respect of current account transactions with parties outside the CMA against the production of documentary evidence confirming the amounts involved."

Import and export undertakings: The Exchange Control Department of the Bank would on application be prepared to consider a request for granting dispensation to certain corporates from the requirements to submit supporting documentation for every foreign exchange transaction related to an import or export transaction. This dispensation is embodied in a formal contract between the corporate, its authorised dealer or authorised dealers, its external auditors and the Exchange Control Department."

And this is merely to prevent huge volumes of documents being produced to an authorised dealer on each occasion that a payment must be made.

Mr Chairman, if we can turn to "Customer Foreign Currency Accounts":

"To enable the main bankers and major corporate entities i.e. the banks who have been entrusted with the administrative execution, export related transactions to cope with the flow of foreign currencies. A system was devised whereby these funds were administered by these banks as part of their nostro account balance pending conversion. Nostro being foreign currency accounts of local banks with overseas banks.

To assist in identifying these funds, separate sub-accounts in the name of the customer were opened in the bank's accounts in the shadow administration. The so-called CFC accounts. In time statements of account are prepared to enable the customer to reconcile these transactions with those appearing in his own books. This gave rise to the impression that local banks were extending foreign currency account facilities to certain of their customers. This was never strictly speaking the case in that these foreign currency funds were merely held by the bank pending conversion into rand either by itself or another local bank. It was soon realised that the system could be used to simplify the administration of a foreign currency cash flow connected with export transactions. In order to assist corporate entities which operate in the export field and also import goods from abroad, it was decided that the cost of the import may be allowed to be offset against the proceeds of exports."

What about corporations who would only export? --- They are also entitled to CFC accounts, yes.

"Authorised dealers were allowed for set-off purposes to open CFC accounts for those corporates who were actively engaged in export and import transactions or where applicable existing CFC accounts could be (indistinct). It was however a requirement that import and export transactions be housed in separate accounts.

Set-offs were to take place within 30 days of receipt of export proceeds on a first in first out basis. It followed that where export proceeds were not utilised for set-off purposes within the 30 day period, such proceeds

had to be converted to rand."

You seemed to concentrate on corporates with both export and import. The same would apply there except that the set-off principle would not arise there. --- That is correct. The system was generally originated to help importers and exporters.

"Authorised dealers actually insured that the system was employed whereby the debits and credits which consummated the set-off should be clearly linked and readily identifiable. In March 1998 the requirement to repatriate foreign currency earnings in respect of the export of (indistinct) services within 30 days was extended to 180 days from date of shipment or date of service rendered.

In September 1998 the CFC account system was amended at the request of authorised dealers to allow the retention of foreign currency earnings in respect of the export of goods to 180 days from the date on which such funds were first credited to the CFC account. Details of such balances can be found at page 212 of SARB6.

The ruling which is contained at page 212 of SARB1 sets out the procedure when transferring funds between CFC accounts as follows:

"When transferring funds between CFC accounts, the authorised dealer affecting the transfer must make use of a free format MT100 and quote the dates on which the funds were originally credited the CFC account. For this purpose field 72 of the MT100 must read "received dates (indistinct)".

Mr Bruce-Brand, in paragraph 21.5.7.9 in the quote there you say when transferring funds between CFC accounts, do you mean CFC accounts held with different banks? --- Yes.

To what extent can the commissioners be certain that the 180 days period have not been transgressed by customers in say the latter part of 2001? Is this checked by Exchange Control or by the authorised dealers? How effective is the checking process? --- Yes, we at the Department do check on this but when this became a more public issue, we in fact wrote a letter to the CEO of each authorised dealer requesting them to confirm that their systems are in place and that they do comply with the 180 day rule. Not every authorised dealer runs CFC accounts but all the authorised dealers which runs CFC accounts, responded to us confirming that they do have the systems in place and that they do adhere to the rules. One or two of the bigger authorised dealers did however state that due to the large number of transactions and the volumes that go through, it is not impossible that due to administrative errors, one or two transactions did not adhere but in general terms yes they were able to confirm.

Since September 1998 you say in paragraph 21.5.7.8 the CFC account system was amended and the 180 days would run from the date on which such funds were first credited to the account, to the CFC account. Now if you take an instance where the amount is credited to a CFC account but then transferred by the customer to a different CFC account, would the second bank know that there was a first credit at the previous bank from which date the 180 days would have to run? --- Provided the authorised dealer adheres to the instruction when transferring funds between CFC accounts that has quoted the date on which the funds were originally credited to the CFC account. If that procedure is adhered to, yes then the system is (indistinct) complied.

If that is adhered to, the second bank would know? --- Correct.

When the first credit took place. --- That is correct, yes.

Yes, paragraph 21.5.7.10. ---

"Part of the ongoing inspections of authorised dealers to ensure compliance of the Exchange Control administration, CFC accounts are checked on an ongoing basis."

5 Mr Chairman, I could maybe just at this point having been through this lengthy situation, summarise the controls that remain in South Africa, can broadly be summarised as follows: Other than a few limits on discretionary expenditure, such as travel allowance or gifts, we are left with quantitative capital controls on residents - residents being individuals, financial institutions
10 and corporates.

If I can then move on to "Exchange Control Contraventions Investigations" .. (intervenes)

Will you just make this clear, Mr Bruce-Brand? Would it be correct to say that these relaxations or what is left that that is decided not by the
15 Exchange Control Department but by government? --- That is correct. By the Minister of Finance.

And the Exchange Control Department would I suppose would be consulted but fundamentally the decision lies with government? --- That is correct.

20 "Contraventions and investigations: Where a contravention of a regulation takes place, the Exchange Control Regulations make provision for penalties, the attachment of certain money and goods and the blocking of certain accounts as well as forfeiture to the state. This is enforced on an ongoing basis as and when contraventions are reported to us or discovered
25 during the course of inspections."

Is there a real enforcement of the remaining Exchange Control Provisions? --- Yes.

How often in practice? --- Absolutely on a day to day basis, yes.

Please continue. ---

30 "Reporting of cross-border - I have now inserted the words here of the first witness, Mr Chairman - onshore/offshore) foreign exchange transactions. Cross-border foreign exchange transactions executed by authorised dealers on behalf of their customers, are reported via and on-line same source system directly the to the bank on a daily basis the details which are set for pages 213
35 to 214 of SARB6. These are called reportable transactions.

The so-called onshore/onshore and offshore/offshore transactions are not reportable. The former comprised local into bank transactions. An example would be transfer the CFC account balance from one bank to another.

40 Offshore/offshore transactions take place outside of South Africa and we are therefore not able to report on them as we have no source for information or jurisdiction over non-residents.

From 1 January 2001 to 31 December 2001 approximately 5,6 million transactions were reported to the Exchange Control Department of the South
45 African Reserve Bank. Of these approximately 36 000 were dealt with by the Exchange Control Department of the South African Reserve Bank and the balance were dealt with by the authorised dealers as those transactions fell within the ambit of the Exchange Control Rulings and therefore did not require prior approval of the Exchange Control Department."

50 5,6 million transactions that you referred to in paragraph 26, all of those would be onshore/offshore transactions? --- That is correct.

The so-called reportable transactions? --- That is correct.

It would include the onshore/onshore transactions? --- No.

Neither would it include offshore/offshore transactions? --- That is correct.

Yes, paragraph 27? ---

5 "Each transaction report provides us with the following minimum information: the name of the applicant, the amount involved, the purpose of the transaction, the beneficiary. If sufficient detail of a specific transaction which entail the transfer of funds overseas, is provided, the transaction can be traced in our records."

10 Mr Chairman, if I may now turn to the 14 October 2001 statement by the South African Reserve Bank:

"Following the statement issued by the governor of the South African Reserve Bank on 14 October 2001, the Exchange Control Department issued an Exchange Control Circular on the D342 to the authorised dealers on 16
15 October 2001, a copy of which is to be found at pages 215 and 216 of SARB6, requesting the authorised dealers to ensure that the overseas counterparties are fully conversant with the Exchange Control Rules applicable; to deal with domestic forward and other derivative foreign exchange markets.

20 It was pointed out to the authorised dealers that when dealing with a non-resident counterparty, other than a correspondent bank, supporting documentary evidence must be obtained confirming that such non-resident counterparty has ascertained South African exposure resulting from an accrual investment or asset denominated in rand.

25 In the case of a correspondent bank, a written confirmation every two weeks with the effect that all transactions had been executed within the ambit of the applicable Exchange Control Rules, signed by the officer is acceptable.

It was also stated that copies of the endorsed supporting documentation as well as the written confirmations, must be retained for
30 inspection purposes. The rules relating to non-resident counterparties who wish to borrow rand locally in order to effect settlement of any transaction undertaken in the South African market, will also reiterate any local borrowings, cash or assets, must be fully secured with the lender by cash cover in rand or the pledge of an incumbent non-resident owned local assets.
35 Any rand asset owned by a non-resident, may be accepted as collateral with any local borrower of cash, bonds or equities provided such assets are not being used for an existing hedging transaction.

The Reserve Bank Market Working Committee under the chairpersonship of the advisor to the governor, Mr Lambertus van Zyl, held
40 various subsequent meetings with a working committee established by the authorised dealers and finalised the wording of the compliance letter requested from the correspondent bank.

With general reference to the Exchange Control Rules and Regulations, it was also decided to bring pertinent matters to the attention of
45 non-resident counterparties. An important notice for the attention of relationship managers, compliance officers and dealers to be found at pages 234, 225 of SARB6, was issued through ACI to all authorised dealers for distribution to their foreign correspondent bank."

CHAIRPERSON: On what date was that done? --- That document was not
50 issued by us and I am not sure on what date it was issued but it was shortly after the statement and the circulars prepared by ourselves.

In about mid October would it be perhaps? --- In a couple of weeks

thereafter, yes. This notice also incorporated the accepted wording of the compliance letter requested from the correspondent bank.

It was also clearly stated in the notice that the measures taken by the Reserve Bank on 14 October are not retrogressive in nature and represent an application with existing rules and regulations.

The bank did express its concern in a statement by the governor on 14 October about the recent volatility and the domestic foreign exchange market, there is the interest of South Africans and non-resident investors of paramount importance. It was felt appropriate to enforce existing exchange controls on non-residents to ensure that only legitimate transactions take place in the foreign exchange market."

Have we got that statement in your bundle here?

MR POTGIETER: If I could assist you to recap, Mr Bruce-Brand, go back to paragraph 29. The statement by the governor that you referred to there, that statement is contained in the expert bundle on pages 129A 129B. --- That is correct.

And then you referred to a document in bundle SARB6 on page 215, will you turn to that document please? --- 215?

215. --- Yes.

This it appears is a document that followed the governor's statement on 14 October. It is dated 16 October. Is that correct? --- That is correct.

Now in the first .. well, what was the purpose of this document? --- The purpose of this document was to officially the correct channels bring the attention of the content of the governor's statement into correspondence with the authorised dealers.

Was it also to explain the governor's statement? --- And to explain, yes.

The letter whose signature appears on page 216? --- That is my signature.

And in the first paragraph of this document on page 215, you would have noted that this document is marked "Exchange Control Circular D342". Do you see that in the heading? --- Yes.

And the first paragraph there is a reference to a document called "Exchange Control Circular D341 of 15 October 2001". That is the day preceding 16 October. Now that document that is not in any of these bundles. --- The governor's statement was issued on the Sunday, 14 October. On the Monday, the 15th, we made that statement available to the authorised dealers under cover of Circular D341 of 15 October 2001 and then we followed it up on 16 October with D342 which was the technicalities. So D341 merely enclosed the copy of the governor's statement.

But is in a sense simply a covering circular for the governor's statement? --- Yes, the attention of authorised dealers was drawn to the statement issued by the governor of South Africa Reserve Bank a copy of which is enclosed for ease of reference.

What are you reading from now? --- Page 325 of SARB5.

That document is then in SARB5 on page? --- 325.

So that is where one will find Circular D341? --- That is correct.

And then two pages further in SARB6, you referred to the important notice. That is on page 224, and you have already testified that you do not know what the date of this document is, but was this also distributed during the latter part of October or can't you say? --- That is my understanding. It was not obviously distributed by the South African Reserve Bank or its

Exchange Control Department but by ACI which is the Association Cambiste International which is the international dealer forum through the authorised dealer community.

And you tell the Commission to whom this document was distributed?
5 --- To the overseas correspondent banks generally, to their relationship managers and their compliances.

And did the Exchange Control Department or the Reserve Bank in general assist in any way to draft this document on page 224 to 225? --- Yes, in terms of the working group which I referred to earlier on, they did
10 have this document corrected by us and we did assist them yes.

And in paragraph 5 of this notice which you will find on page 225, in that paragraph there it says:

"The South African Reserve Bank and a working committee established by ACI have accepted the following wording for the compliance
15 letter requested from the correspondent banks."

So this then is the wording of the compliance letter that would have to be submitted by the correspondent banks? --- That is correct.

Mr Bruce-Brand, will you then continue with the last section of your statement on page 24? --- Mr Chairman, as I reached the conclusion and
20 then specifically with reference to the term of reference:

"In view of the foregoing I am therefore not able to isolate any transactions which caused, contributed and/or gave rise in the rapid depreciation of the value of the rand.

Furthermore numerous economic and political factors which the
25 Commission has already heard, influenced the exchange rate of the rand would also make this task even more difficult for me."

Thank you, Mr Chairman.

Just on these paragraphs 39 and 40, Mr Bruce-Brand. You have testified already that the exchange Control Department has records of the
30 onshore/offshore transaction. The so-called reportable transactions. Is that correct? --- That is correct.

Is the effect of what you say in paragraphs 39 and 40 then that out of these reportable transactions, you would not be able to identify transactions that gave rise to the rapid depreciation of the rand if there exist any such
35 transactions? --- That is correct, yes.

But in so far as the Commission may approach you with details of a specific transaction, you would then be able to assist on the basis of your records to give information on these transactions. --- Yes, we would be able to isolate and identify the transactions, yes.

40 What sort of information would you be able to supply the Commission with? --- If we can just turn back to page 21 of my submission. Each transaction report provides us with the following minimum information and if you go on to page 22, the name of the applicant, the amount involved, the purpose of the transaction, the beneficiary. There would be further
45 information, the dates of the transaction and probably the exchange rate at which the transaction took place, the bank account of the South African party and so on.

So the counterparties would also be there. --- The beneficiary would be named but not necessarily the overseas party's bank account for
50 example.

And what would you have in the form of documents as opposed to electronic data? --- No, we would have no documents. We would only have

the electronic data. Any documents would either be with the authorised dealer who executed the transaction or if the transaction took place under a import/export letter of undertaking the documents would be housed with the corporate involved.

5 So what you will have is in the form of electronic data? --- That is correct.

Thank you, Mr Chairman.

CHAIRPERSON: We will take an adjournment for 15 minutes for tea. We will readjourn at 11:35.

10 PROCEEDINGS ADJOURN

15

20

ON RESUMPTION

25 ALEXANDER MCGREGOR BRUCE-BRAND (s.u.o.)

CHAIRMAN: Thank you ladies and gentlemen let us resume. Mr Potgieter any further questions?

MR POTGIETER: No nothing further Mr Commissioner.

CHAIRMAN: Mr Ginsburg any re-examination?

30 RE-EXAMINATION BY MR GINSBURG: Firstly Mr Bruce-Brand if I could take you back to page 10, paragraph 7.3 of your statement. At that juncture you were asked a question by Mr Potgieter concerning the reporting of certain transactions and what you said as part of your answer was that this did not mean that you department delved into each and every transaction.

35 Do I understand you to be saying in that regard that those transactions are the ones handled by the authorised dealers, the ones which do not require your prior approval? --- That would be correct Mr Chairman yes, for example the normal every day import, export transactions that take place.

40 Thank you. Then on page 12 of your statement you refer in paragraph 14 to certain other policy changes that were required to put in place as a precondition to further abolition of exchange control. You mentioned tax issues and bank supervision issues. A prudential requirement is also an issue that needs to be dealt with under that heading?

45 --- Yes Mr Chairman that would certainly be a further aspect and a further example. As one would phase exchange control out one would have to have some form of prudential arrangement in place for financial institutions. This is international practise and it is found that basically all over the world most countries have some form of prudential laws that come into place, insurance companies matching dollar assets, dollar liabilities, this sort of thing. So it would certainly be something that would be looked at and is being looked at in South Africa's case as well.

50 Then I would like to turn your attention to page 14 in your statement to

paragraph 21.1.3 where in the second sentence you talk about the 10% foreign currency transfers on the cost of investment in excess of the amount of R500 million that corporates may transfer overseas. Could you perhaps give the commission some sense of that number because it appears to look
5 restrictive whereas in fact it is not restrictive? --- Mr Chairman if I may by way of example without giving away anything from a confidentiality point, if we took a transaction of say let us say R6 billion, foreign acquisition worth R6 billion what we would allow from South Africa is firstly the R500 million cash out of South Africa, that means that R5.5 billion has still got to be found
10 somewhere. We will allow also cash out of South Africa 10% of R5.5 billion, that would be R550 million so total cash out of South Africa would be R500 million plus R550 million which would be R1 billion, just over R1050 in excess of R1 billion cash out of South Africa. That would leave a balance then of R4.95 billion to make up the R6 billion, that would have to be borrowed
15 abroad or be raised by a share placement or any combination to raise the R4.95 billion and I use this as an illustrative example and there are many transactions of this nature that take place. This is part of normal procedure that we handle applications to this extent and as I mentioned in my statement there is no cap on the total amount of what an investment is restricted to and
20 these should certainly not be seen as one off transactions, they do take place and it shows that in the South African process of gradually phasing out exchange control there is that confidence that we are allowing fairly substantial amounts of money out of South Africa as in this example.

Thank you. Finally then if we can look at the CFC balances that you
25 referred to on page 212 of volume 6 of the Reserve Bank bundle. Just to indicate whether those balances reflect any dramatic change or in fact any significant change post October 14. --- Mr Chairman I think that you will see the figures that are shown there for the period covering calendar year 2001 there is not a great increase from the beginning of the year and that the
30 amounts all vary between \$2.3 to #2.7 billion, so there is no great indication of any severe increase in the balances that are held on the CFC accounts by the authorised dealers.

Yes thank you Mr Chairman we have no further questions at this juncture.

35 CHAIRMAN: Questions by the commission?

MS QUNTA: Mr Bruce-Brand I want to take you back to paragraph - when you consider applications by authorised dealers for transactions that require foreign exchange (inaudible) are these applications always in writing or are there instances where they can be done orally on the telephone. Say it is a
40 matter of urgency? Are there instances where that occurred? --- Mr Chairman to do something verbally over the telephone yes if somebody for example says they urgently need a travel allowance in excess of the limit, they are going overseas tonight one could arrange that with the party and the party's bankers concerned verbally but it will always be followed up in writing.
45 In other words even after the even the authorised dealer would put an application to us saying that Mr Bruce-Brand I confirm a telephone conversation with you on such and such a date whereby you agreed to Mr X availing of an excess travel allowance and it will come into the record system of the department and the authorised dealer and flows through the reporting
50 system. Verbal approvals for transactions more complicated than that no it would not really happen no.

So the transactions would always be in writing? --- At the end of the

day yes without a doubt.

So in effect all transactions would it be then your evidence that all transactions that are reportable would be with the Reserve Bank, the commission if it wanted to would find records of every single transaction that has to be reported? --- The extent to which I elaborated on the information that is provided in respect of a reportable transaction will be on record with us electronically but we will not have underlying substantiating documentation, that will be with the authorised dealer or the corporate concerned, but the end result of the transactio of the foreign exchange flow will be on record with us yes.

If I could go back to paragraph 21 where you deal with the asset swops that are there. It is in fact specifically 21.1.4. You indicate there that corporates have permission to enter into corporate asset share swops and share placement transactions to acquire foreign investment and in response to a question asked by Mr Potgieter you sought to make a distinction between the placement of shares and the sale of shares. Now he then asked you a follow-up question to get clarification on what exactly you mean by placement and I did not quite understand your response to that. I would like to get clarification from you. It is clear what a sale of shares means, there is a buyer, there is a vendor and there is a completed transaction. What exactly do you mean by a placement of shares. Are you referring to a share loan agreement or what sort of transactions are you referring to placement of shares or even is it a term of (inaudible) by the Reserve Bank? --- Mr Chairman there is a change in ownership but one could also for example place a parcel of shares or issue new shares so that the shareholder which acquires those shares, in our example it would generally be because you are raising finance to pay for a foreign acquisition that you are making you are going to make shares available to a non-resident and in terms of the replies that we give or the instructions that we give to long term institutional holders who will hold those shares, so it can even be new shares that are issued for the specific purpose of placing them with the overseas holders. They will then become the owners of those shares and the payment that they make for those shares would be in foreign currency abroad and the foreign currency would then be used by the South Africa corporate to fund the acquisition of the target company.

No, no I understand that mechanics of the transaction what I am looking for is your meaning, is the exact meaning of what placement of shares means, because if you are saying they can use that share as security for the acceptance, for the securing of the loan of a foreign currency or is it an outright sale, is it a purchase and sale because then what you need to do is to make that actually clear. --- Yes, one could possibly liken it to a IPO an initial public offering where you offer the shares but here you are, because there is a specific purpose behind it there will be a lead manager abroad who manages the whole process but the shares are not used for any other purposes than placement with investors, foreign investors who provide the funds to become owners of the shares.

Perhaps if you could get a system, are you the legal adviser or, sorry I do not have your ... (intervenes).

MR GINSBURG: Yes my name is Phillip Ginsburg and I am representing the Reserve Bank.

MS QUNTA: Do you understand the import of my question. I am trying to establish whether what we are talking here, is it a loan of shares, is it - if it is

not a loan of shares is it security for the foreign exchange that the South African (inaudible) if it is not that does it mean therefore that it is actually a purchase and sale. Whether it is newly issued shares or shares that have already been there, that is not for me the question, the question is is it an
5 outright purchase and sale, whatever the conditions are surrounding the purchase of ... (intervenes). --- At the end of the transaction yes it is a purchase and sale yes.

So the South African corporate would diverse itself of the ownership of that share, as beneficially speaking. --- That is correct yes.

10 Also in 21.5.3 if we could go to that. You mentioned there you are referring to foreign forward exchange contracts with South African residents.

Can you just explain to me the meaning of the words firm and ascertain foreign exchange commitment. And perhaps make an example. --- Yes, a firm and ascertained foreign exchange commitment in this case due to a non-
15 resident, in other words I think again an important transaction is the easiest example to use where a South African party is going to import goods and wants to cover himself in respect of the payment that must be made, so for the bank to satisfy itself that this is not a fictitious transaction they must establish that it is a firm and ascertained transaction, so in the case of an
20 import transaction the corporate would then have to produce to the bank an invoice for example showing that I a South African corporate wish to purchase X product from so and so abroad and here is proof, commercial proof that I am entering into that transaction and these are the amounts involved in foreign currency and I must pay within 30 or 60 or 90 days then
25 the bank can do the deal.

And does the Reserve Bank require that evidence or does the authorise dealer have that evidence? --- That evidence is produced to the authorised dealer who then retains those documents once he has endorsed them that the forward exchange contract has been done and the documents
30 are retained by the authorised dealer for inspection purposes.

So if the Reserve Bank wanted to have access or had a query about a particular transaction it would be able to access that. --- We would be able to access the documentation.

But in effect the author is - the Reserve Bank would then rely on the
35 authorised dealer to ensure that this particular exchange control regulation is being met? --- That is correct.

If I could ask you about then on-resident, you indicate in 5.4 I think I was referring you to 5.3, 5.4 that there should be legitimate South African exposure in the instance of contracts with non-residents. My question is
40 more or less the same, how does the Reserve Bank know that in fact there is a legitimate South African exposure. Perhaps starting with just explaining to me again what that means. --- The same procedure, it would just be the other way around. Let us say for example a non-resident owned a fixed deposit bank balance here which was maturing in 30 days time or 60 days time.
45 Evidence can be produced that there is a firm and ascertained underline, there is going to be an accrual to a non-resident.

The 14 October statement which we have heard a lot of last week when the experts from the commercial banks gave evidence, I understand now from you that there was a follow up circular to confirm the contents of
50 the statement by the governor. In your meetings or in the Reserve Bank meetings with authorised dealers did they express and I note that you have the, I think which is on page 202 is that correct, the statement that they

ultimately issued to their members, did they express any unhappiness, any concerns to you with regards to both the statement of 14 October and the circular, the follow up circular? --- I cannot give best evidence on that, that will have to be commented on by the governor.

5 So you were not in the meetings that were held or you are not aware of that? --- No I was involved but that was the sort of out of my professional ambit of the pure exchange controls.

CHAIRMAN: You say the governor will deal with it? --- The governor will deal with it yes.

10 MS QUNTA: Are you saying that you are not aware of expressions of concern or that you would prefer that the governor deal with that question? --- That is correct.

The second last question that I want to ask you is you have indicated that the Reserve Bank does have, perhaps before I come to that, you
15 indicate that the Reserve Bank when it considers an application from authorised dealers or parties to a transaction that there are certain norms and policies that the Reserve Bank will use and you explained that, you know you have relaxed over a period of time in line with the relaxation of the exchange control, those policies are they all written or are some oral so that
20 they are not really reduced in writing, sort of policies that you will take into account when you consider applications? --- In general terms they are in our internal system reduced to writing yes. I would not say every single one but 99% of them yes are reduced to writing.

Tell me Mr Bruce-Brand your inspections, the Reserve Bank
25 inspections, you indicated when in your statement here that they are done - we deal with the contraventions, the inspections that you do, how often do they take place, and do they take place as a result of a specific complaint or something that was brought to your attention or do you a routine inspection?
--- No we do inspections of branches of the authorised dealers and their
30 treasuries on an ongoing basis. In other words we have staff members whose job more or less permanently is to go out and do inspection and do inspections not, I would not say quite on a daily basis but it is not something that happens now and then, it is a regular feature and it is part of the mission of the department to do these inspections.

35 And how often does that take place, if you say it is not on a daily basis, would it be on a weekly, a monthly? --- No I would say on a weekly basis, I would probably have 5, 10, 15, 20 of my staff out somewhere in South Africa doing inspections.

And would those be just standard inspections, you know rather than a
40 a response to a complaint or (inaudible). --- They would be normal standard inspections if somebody complained about something and we would also do a specific inspection. We do inspections on our own when we go to authorised dealers, we also do joint inspections with the internal inspectors of the banks and then the bank's own internal inspectors part of their brief is
45 also to inspect whether there exchange control requirements have been complied with.

And in the course of doing those inspections you, leaving aside what happened last year but I presume you have done inspections during the course of last year. Do you have any statistics on the number of, if any
50 exchange control contraventions that occur? Does the bank keep statistics of exchange control? --- Oh in that sense yes we do.

Are you able to provide the commission save for the course of last

year if the commission decides ... (intervenes). --- Yes we would be able to get that information for you Mr Chairman.

The second part of the terms of reference, deal with 1.4, I do not know if you have the terms of reference in front of you. --- 1.4?

5 Yes. --- Yes I have it.

It asks, you see that it asks the commission to advise the president on the (inaudible) of the current administration system of (inaudible) to the exchange control and I am not asking you to answer this question immediately, did the Reserve Bank, (inaudible) contained in your statement
10 and unfortunately I have only received your statement this morning, five minutes before we started, has the Reserve Bank any recommendation, any suggestions, any information that could assist the commission in complying with that particular terms of reference and if it does not have it now would you be in a position to put forth your views in relation to that 1.4? --- Well if we do
15 not have it now we would certainly try and assist if we could yes. At this point in time I can obviously state as far as we are concerned if the parties involved are authorised dealers applied the existing rules that are in place then the system should work. Nothing is ever water tight but the rules are there and they should work if they are applied to the fullest extent yes.

20 So would it be your view then that the systems (inaudible) now are adequate? --- Yes that would be my view but then I would admit nothing is ever water tight, things can always be improved upon and often the banks will come to us with suggestions and then we will look at them yes.

The - I think you heard Mr Bruce-Brand the view expressed by the
25 experts from the commercial bank sector about the impact of the October 14 statement on the market's liquidity. Do you have any view on that? --- No I am not best evidence on that, I cannot ... (intervenes).

Will someone from the Reserve Bank ... (intervenes). --- Yes.

The last question I have for you and this relates to your statement 39,
30 paragraph 39 and you indicate there that

"in view of the foregoing you are not able to isolate any transaction which caused or contributed to the rand"

and then you say in the second paragraph that you believe that numerous economic and political factors influenced the exchange rate. In relation to
35 paragraph 39 I have a question but I am not quite sure how to put it because you see your evidence in the substance of your evidence relates to explaining to the commission how exchange control works, the mechanics of exchange control and what the bank does and the various, you know which is very useful but it does not relate to evidence of whether or not any
40 transactions took place, so I have a question mark in my mind about whether you can draw a conclusion when the document, no facts were placed before the commission to indicate that, and I will explain to you perhaps if, make an example. The experts that came and gave evidence before us last week tried to show the commission why in their view they believed that it is macro
45 economic factors that influenced the demise of the rand last year and they concluded then therefore that they believed transactions are not responsible and if they were they did not have the facts. Now you have not given us any evidence to substantiate your conclusion, so my question, that is the first part of my question, the second part is you have also indicated in paragraph I
50 think 20 of your - your staff complement has been reduced and that you make investigations regularly and that you have statistics on contraventions, are you able then to say as you say in paragraph 39 that you know you do

not believe that transactions caused or contributed to the rand's decline or are you saying you are not able to isolate, they may be there but you are not able to isolate them? --- Mr Chairman yes what I am saying is with reference to paragraph 26 I think it is, 26 yes, given the volume of transactions 5.6 million foreign exchange transactions having - taking place during the period under review, given that volume based on that from our perspective, from the exchange control we are not able to isolate any specific transaction or transactions yes, that is correct.

Have you attempted to do that though, has the Reserve Bank attempted to do that? --- No if we were ever made aware of any transaction that was not strictly in terms of the rules and regulations we would investigate it there and then.

So prior to the appointment of this commission you were not - the Reserve Bank was not aware of any such transaction? --- No.

I have no further questions.

MR GINSBURG: Just one follow up question arising from the question concerning the enforcement of the regulations, we do have some rough information at hand. If the commission wants us to give it in a more refined form we can try and do so but we have some information which we could give now if that is required madam commissioner, on enforcement. In other words the number of prosecutions that may have taken place and the amounts of money that may have had to have been repatriated. They are somewhat rough at the moment but we have some details. If you require them at this moment we can give you a general idea.

MS QUNTA: Let me respond by saying that in so far as the period covered by our terms of reference that is from January to December certainly the commission would probably want to look at it but it is not - I do not believe that you need to break your back and give it to us now. You may go away and do it later on, before the commission winds up. And perhaps the chairperson will be in touch with you.

MR GINSBURG: We can do it now, I think we prefer to give you some general idea now rather than leaving it in the air. So if we may do so Mr Chairman, thank you. Subject then to us finding it and putting it all in perspective. From the period 1 January to 31 December 2000 we received information relating to 166 cases, sorry to 31 December 2001, 166 totalling approximately R1.8 billion. We opened 71 investigations during the period involving the sum of approximately R100 million. We referred 39 cases to the commercial crime unit, the amount involved there approximately R203 million. As at 31 December an amount of R48 million was held at the CPD corporation for public deposits being amounts blocked or attached subject to finalisation of investigations. We forfeited an amount of approximately R33 million to the national treasury during the period. That is the kind of information we have.

CHAIRMAN: What does that last part mean?

MR GINSBURG: Once we had attached and proven and won the case so to speak it was funds that were then forfeited to the benefit of the state.

CHAIRMAN: Did any of these cases land up in court where people actually appeared in court and were prosecuted?

MR GINSBURG: Yes.

CHAIRMAN: And were taken to the full extent, I mean they were convicted and - is the norm that penalties are imposed or what is the norm in this sort of thing?

MR GINSBURG: Normally a monetary penalty but yes.

CHAIRMAN: Is that the norm that there is a penalty.

MR GINSBURG: Yes and it could also lead to transactions being unwound and to capital that was illegally exported from South Africa being recouped
5 and being brought back to South Africa.

CHAIRMAN: Yes, is that satisfactory for you?

MR GINSBURG: Mr Chairman the last answer is dependent of course on an order of the court about concerning repatriation.

CHAIRMAN: Yes.

10 MR GANTSHO: Mr Bruce-Brand would you please turn back to page 14, paragraph 21.1.4. You make reference to swops and share swop transactions, share placement transactions. What would typically be the conditions that would be attached to approving these types of transactions, do you place some conditionalities to these kinds of transactions or would
15 you just look at the amount and see if they comply with the existing exchange controls and approve them. --- Mr Chairman there is due process that is gone through, firstly as I said the corporate making the application must demonstrate to us that there is benefit to South Africa, then we will have a look at the financing mechanism and over amounts that large where we go
20 over the R500 million etcetera and they need to place shares what it really entails is employing, call it a lead major or an overseas investment bank that would often go on a road show and explain the whole situation why the shares are going to be placed. What we would make very clear in our reply is that this must be done in a responsible manner, the shares must be placed
25 with long term non-resident holders of shares, long term institutional holders, so it is not just a process that can happen overnight, there is ... (intervenes).

How are you able to determine if the holder is a long term holder of these shares, are you able to monitor, the flow back of those shares for example? --- Yes we then make it incumbent on the applicant company to
30 provide us information which they obviously get from the share register as to the extent of any flow back of shares to South Africa. They must report that to us, that is also a condition that we lay down in our reply. They must report flow back.

So the onus of monitoring and tracking the flow back is not with you
35 but with the investment banks that place the shares, the agents? --- And the corporate itself.

And the corporate itself. --- Yes.

Do they have specific reporting directly to you, on an ongoing basis?
--- They must through their authorised dealer report to us what sort of flow
40 back if any has occurred.

Are you aware of any transaction where this has been reported or brought to your attention that there has been a flow back contrary to your understanding at the time of approving these types ... (intervenes). --- Yes inevitably there is a little bit of flow back certainly yes.

45 But not really enough to cause concern? --- Not material no.

Specifically in this year, this period under review there has not been any significant to your knowledge? --- I would not be able to be that specific because I have not checked but in general terms no.

If we were to ask for someone to check for us could that be done? ---
50 We would have to get the corporates yes I am sure we could.

The second follow up question on the same page relates to the 10%, when was this 10% additional allowance so to speak introduced? I am

trying to determine if this is a new exchange control revision or was it always there, that is what I am trying to establish. --- No it is a recent innovation but I am just trying to see exactly when. We understand from our colleagues at the back Mr Chairman that it is February 2001.

5 2001 so it was within ...

CHAIRMAN: Is this a sign of co-operation? --- It is a sign of me putting my credibility at stake. On page 161 of SARB volume 6.

Okay is that the date 21 February 2001. --- 23 February 2000.

MR GANTSHO: If you were to give us a sense of the impact of this on the
10 foreign exchange reserves if you were to give us a sense of the impact of this
introduction in the year 2000 on the foreign exchange reserves of the country
because obviously depending on the size of the transaction the amounts that
is financable in rands with interest as you gave an example how would you
give us a sense of the volumes involved, amounts involved in the year 2000
15 are you able to do that and in 2001 specifically? --- Yes we are able to do it, I
am not sure if I can do it right here and now but we do have figures.

But have you noticed any escalation of the outflow of rands for
example sorry of dollars? --- I think that information is in the governor's
statement but yet there would certainly be if you increase the limit from the
20 previous R50 million to 500 or whatever the increases are then it would lead
to an additional outflow of foreign currency yes.

And no noticeable increase in the year 2001 which is the period under
review for this commission, I am trying to get a sense if it escalated or not in
the period under review? --- Comparing the two years?

25 Yes, since in the introduction. --- Mr Chairman these figures will be
given by the governor tomorrow.

Okay so the governor will give us the sense of this? --- Yes.

Thanks very much. Then on the same page 21.1.2 there are more
costly transactions or investments that are referred to there which on
30 application you know could be financed on the strength of the balance sheets
of the South African balance sheets of these corporates and at the end of the
two years what happens, how are these financed, can they be financed still
out of the rands, out of you know local currency? What has been your
experience? --- Often the foreign borrowing is rolled over, but it would then
35 be up to the corporate to approach us. We would always reserve our sole
right to finance off shore.

Okay but you have not experienced any major outflows of our
currency reserves because of this? --- No I do not think I can say that no.

On page 18, I am trying to establish the start of this 180 days, under
40 21.5.7.7 you make reference to the date, I think it is the date of shipment,
and the date of service rendered under that paragraph and then in the next
paragraph you also talk about the date when these funds were first credited
to the CFC account, can you just clarify it for me which date is important
here? --- Up to the first dispensation was based on 180 days from date of
45 shipment to date of service rendered. In our ongoing discussions with the
authorised dealer community they found that this was reasonably difficult to
police or to make quite sure that they knew exactly what the dates were and
they felt it would be easier if we made 180 days applicable from the date on
which such funds were first credited to the CFC account. So date of
50 shipment then fell away and we took the 180 days from the date on which
funds were credited to the CFC account which then made it easier for the
authorised dealers to administer.

MR GINSBURG: I am sorry to interrupt Mr Commissioner but on page 160 of volume 6 of the bundle you will see that on 11 March 1998 the further written (inaudible) was announced in paragraph 7(c) that may be the date you are looking for, for the 180 days in regard to the CFC account. It moved
5 from 30 to 180 on 11 March 1998.

MR GANTSHO: Of March and in September 1998 is the date when the funds were first credited, that particular criterion was used. So it is possible for an exporter to negotiate with a supplier or with the customer to delay the actual depositing of the money is that what you are telling me? --- That is
10 possible.

And you have not had any experience to this effect where the proceeds, the shipment takes place long before or rather the crediting of the CFC account takes place long after the shipment took place, are you able to monitor that from the Reserve Bank or the authorised dealer? --- Well yes we
15 can because the date of shipment will obviously be known in the record and then the date on the terms of credit extended by the South African and the date on which the funds are received in South Africa.

Can you keep records of those amounts? --- Yes.

Last question. My fellow commissioner asked the question about the
20 facts of your conclusion which I also did not get. Thank you very much.

MS QUNTA: I just wanted clarification on paragraph 21.5.6 and I am not sure whether it is the correct words. It says there the exchange control department would on application be prepared to consider requests granting dispensation to certain corporates. Now that may be a common word used
25 but does it mean exemption? --- Yes exemption from providing the documentation to the authorised dealer on each and every occasion they wish to enter into a foreign exchange transaction.

So if a particular corporate had five transactions say for a year they could come to the Reserve Bank and say look we have five transactions, but
30 can you exempt us from notifying the Reserve Bank or the authorised dealer of all five and on what basis? --- No, it is more intended if they have 500 transactions a week that they cannot run to the bank 500 times with 500 pieces of documentation, so they centralise it and then in terms of this agreement they manage. So it is basically to obviate huge volumes of
35 documentation being produced on a continuous basis. The documentation in terms of the undertaking is then kept with the corporate and filtered through the system where the external auditors are involved as well. So retrospectively anybody can or specifically ourselves can go and check that the documentation is in fact there, although it was not produced to the
40 authorised dealer exactly when the payment was or when the transfer was requested.

And is there any limit on your exemption. Would I be correct to say that that word should in fact be exemption not dispensation? --- That is another word yes.

45 Is there any sort of monetary limit on the transaction or what factors does the bank take into account in making, giving that exemption? --- The nature of the business, the size of the business, the values involved and the number of transactions and the volumes. And then I just, one ... (intervenes). --- Sorry perhaps also where a range of similar transactions
50 which take place over and over again. In other words if you say a coal exporter and he is exporting coal on a continuous basis it is the same type of transaction that takes place all the time.

And so effectively you would not necessarily then unless you go to the corporate itself or the authorised dealer have (inaudible) relating to that sort of import, export transactions? --- No in, sorry if I am hearing you correctly, where we allow them to do it?

5 Yes. --- No they would have to submit an application to us and motivate why we should allow them to do it.

I am more talking about the details of those specific transactions, that you exempt them from. They would not have to come back to the bank then? --- No they will retain them at the corporate and as part of our ongoing
10 inspection process I mentioned earlier on in answer to a question, we also do inspections at corporates that have signed these undertakings.

You indicated and I made a note, a written note in the course of your presentation that import and export transactions are not all reported to the Reserve Bank is that correct or would that be, or did I misrecord it? --- No, we
15 are not involved in adjudicating on each and every import and export transaction because they take place and the authorised dealer can (inaudible) but the financial flow of cash is reported to the - is a reportable transaction yes.

Last question, long term institutional holders is that one year, if you
20 say shares must be placed with long term ... (intervenes). --- No long term - oh sorry overseas.

Long term non-resident investors, how long, what does that mean?

MR GINSBURG: Madam commission I apologise for interrupting but we are talking about current account transactions. No the previous question related
25 to current account transactions. There is no restriction on South African residents in regard to those transactions, the exchange control regulations limit capital account transactions but not current account transactions.

MS QUNTA: I mean the long term - you say in the asset swop the special thing the shares must be placed in a long term institutional investor? ---
30 There is no formal written period but it certainly exceeds a year and we looked at a number of years.

So someone could not do that for six months and then resell it? --- Definitely not no then they would have report flow back to us and in our reply we always reserve the right to call upon the corporate to refinance the
35 transaction if flow back takes place.

But how would corporate and authorised dealers know what the limits are if there is no clear definition about what a long term institutional holder is? --- We will discuss it with them at the time of the application when they come and motivate their application to us.

40 So they would know that it must be for longer than a year at least? --- Yes.

Minimum, could it be for a longer period? --- Yes, the longer the better.

So you would discuss with each corporate, each transaction you say
45 to the corporate okay these shares must be placed for not less than three years or? --- We would never specify the exact term but before they even get to us the authorised dealer community would have informed them of what our basic policy and norms are, so they would have a very good idea right up front.

50 Thank you.

CHAIRMAN: Any further questions? Yes Mr Le Roux?

MR LE ROUX: Mr Bruce-Brand would you turn to page 225 of the bundle.

Page 225. Is it correct that right in the middle the quote there is an undertaking which was required by the Reserve Bank as from 14 October last year? That should also be contained in the memorandum of 14 October or the circular of 14 October 2001. --- Yes that is what we required
5 from the compliance officer yes.

And that was applicable as from the, I assume 15 October last year?
--- No this was only finalised some weeks after. The principle yes but this particular letter was only sent out some time thereafter.

Was this a new requirement? --- No definitely not.

10 What was the previous requirement as far as the role of the compliance officer was concerned? --- No we did not specifically home in on the compliance officer.

CHAIRMAN: What was new that the compliance officer had to make a statement similar to this. Is that essentially what was new in this regard? ---
15 Correct.

MR LE ROUX: So is it correct before you did not require the compliance officer to furnish such a certificate? --- We did not specify compliance officer.

Then I want to ask you a question concerning the penultimate paragraph of your statement, paragraph 39 on page 24. Now in paragraph
20 39 you state that you are not able to isolate any transactions which caused, contributed or gave rise to the rapid depreciation of the value of the rand, is that correct? --- That is correct.

Is that based on investigations and inspections carried out by the Reserve Bank? --- No as I answered the previous question it is in view of
25 the 5.6 million transactions that took place during the period in question.

Did you not take into account any other facts for that statement? --- As I have said in the second one due to further more numerous economic and political factors.

Are those the only factors you relied upon or are there others as well?
30 --- No that is basically what we relied on.

How regularly do you carry out inspections at the authorised dealers?
--- I think I have covered that, I said on an ongoing basis.

Once a month? --- No every week I said, I have got 5, 10, 15 or 20 of my staff out on inspections somewhere in the Republic of South Africa.

35 I think that is the lot, I have got no further questions.

MR GINSBURG One follow up question please. In relation to your paragraphs 39 and 40 Mr Bruce-Brand can you or can you not say whether anything stood out as extraordinary in the period under review? --- No I cannot.

40 CHAIRMAN: Mr Bruce-Brand following up on Mr Le Roux's question in regard to inspections, is my understanding correct that you would never inspect any transaction in relation to the effect it had on the rand, your inspections would be from a compliance point of view? --- Correct.

Well if there are no further question - ah Mr Potgieter.

45 RE-EXAMINATION BY MR POTGIETER: Mr Bruce-Brand in the governor's statement of 14 October 2001 which appears on page 129A of the expert bundle, the governor said the Reserve Bank stands ready to take appropriate firm steps against trading activities in the system that existing rules and regulations and so on, prior to the 14 October statement did you - well why
50 was it necessary to issue the 14 October statement, did you establish prior to 14 October that the authorised dealers were lax in complying with existing exchange control regulations? --- I would not be so bold as to say they were

lax but there was certainly comment in the market that the rules were not being adhered to as they should as far as non-resident participation was concerned. I think as far as South African participation is concerned it is very rigidly laid down and there is no scope.

5 CHAIRMAN: Is there a question from the side here?

MR UNTER-HALTER: (Inaudible) one very brief question to Mr Bruce-Brand. If I can take you to paragraph 6.5 of your statement.

MS QUNTA: Perhaps you should put yourself on record. I think maybe if there are representatives if they can put themselves on record.

10 MR UNTER-HALTER: (Inaudible) from the Standard Bank.

CHAIRMAN: I think we must just get a microphone to you. Perhaps you should just come forward. Mr Unter-Halter you are representing the Standard Bank.

MR UNTER-HALTER: Yes David Unter-Halter for the Standard Bank. Mr
15 Bruce-Brand could I take you to paragraph 6.5 of your statement and the last sentence thereof. You say

"authorised dealers are not the agents of the exchange control department but act on behalf of their customers."

It is correct is it not that authorised dealers are responsible for enforcing
20 exchange control regulations on behalf of the bank. Do you agree with that statement? --- On behalf of the Minister of Finance.

So be it but they are responsible for themselves taking on the task of enforcing these regulations is that also correct? --- Correct yes.

Thank you.

25 CHAIRMAN: On the assumption that there are no further question the commission will adjourn until 11:30 tomorrow morning.