

PROCEEDINGS RESUME ON 12 APRIL 2002:

CHAIRPERSON: Today we are dealing with Investec's evidence and the first witness is Mr Richard Forlee.

RICHARD PAUL MARK AIDAN FORLEE d.s.s.

5 MR NAIDU: Mr Chairman, for Investec Bank Mr Forlee will be followed by Ms Pauline Trollip and Patrick de Villiers thereafter. Their statements constitute pages 1 to 39 of the bundle which is the Investec Bundle. The original signed statements are now in possession.

CHAIRPERSON: Yes.

10 EXAMINATION BY MR NAIDU: Mr Forlee, are you the head of the South African Treasury since 1998 and the Financial Markets Operation of Investec and was this role expanded during 2000 when you became the international head of the Treasury and Finance Group? --
- I am.

Are your qualifications and your relevant employment history and your areas of responsibility set out in paragraphs 1 and 2 of your statement? --- They are.

15 And you confirm and adhere to the contents of your statement? --- I do.

And do you appreciate that your statement constitutes evidence before this Commission? --- I do.

The contents of your statement and your evidence, is it within your personal knowledge? --- It is.

20 In paragraph 4 you deal with the structure, the Group Structure of Investec, the details of which you say you provided to the investigating team appointed on behalf of the Commission? --- Yes.

Your core areas of business are identified in paragraph 5 of your statement? ---
Yes.

25 In paragraph 6 are the key areas of activity regarding foreign exchange trading concentrated with your bank, Investec Bank (Mauritius) Ltd and Investec Bank (Botswana) Ltd? --- Yes.

Both of which are subsidiaries of Investec? --- Yes.

On what basis do these banks transact foreign exchange between each other? ---

30 Between each other in terms of Investec Bank Mauritius with Investec Bank Botswana, to my knowledge there is no transactions between those two entities. They would each transact with their respective customer basis.

In paragraph 7 you describe the various desks other than the foreign exchange desk which will be dealt with by Mr De Villiers? --- Yes.

35 So far as your interest rate trading desk is concerned, you say that it is divided into five separate trading areas that have been consolidated in order to derive synergies from the various trading markets? --- Yes.

And these are set out in 7.2.1 to 7.2.5? --- Yes.

40 In 7.3 and 7.4 you describe the equity derivatives desk and the commodities desk? --
Yes.

The Financial Products which is divided into five areas is set out in paragraph 7.5.2? --- Yes.

45 And 7.6 is your Structured Finance division and in 7.7 you deal with the Project Finance and dealing with the latter division can you indicate approximately how many transactions you refer to in your last sentence and approximately what the total amount is? --
- The last sentence being all transactions, with the exception of a few small transactions during 2001?

Yes. --- All transactions are denominated in Rand and therefore do not give rise to Foreign Exchange exposure?

50 Yes. --- This division, the Project Finance division, its main area of business is in the advising and/or underwriting of debt equity for infrastructure projects in the main. The number, some of the examples of transactions would include the mandate that we received to advise on the import, the platinum toll road project. There are a number of other projects as well that I could go into. I would need to just check in terms of detail as to which finance
55 year they fell into but another example would be the correctional facility in Bloemfontein as well.

In 7.8 you deal with your Corporate Finance division and in 7.8.3 are you able to give some idea of the kind of exposure managed by the client? --- Again I think I would give a general response to that, many of the transactions that our Corporate Finance division would
60 get involved with would be to advise clients on acquisitions. Some of those acquisitions may

be for acquisitions outside of South Africa. In that event the financing of that acquisition would have a foreign exchange implication. That is for the client's responsibility because our Corporate Finance division would be merely advisers in that particular situation.

CHAIRPERSON: And then just before we move off paragraph 7, in conclusion you said that
5 this particular desk or division has not, its activities has not had an impact on the rand. Sometimes it is by nature of the desk, I can see that? --- Yes.

And sometimes it must be as a matter of fact that you say so? --- Yes.

Well what internal enquiries did you or Investec instigate in order to come to a conclusion like that? --- I think that my experience and involvement in the business allows
10 me in most instances to be able to make the statements that have been made. Where there has been any uncertainty I made enquiries of the heads of the businesses as to whether or not they were involved in any transactions that I did not know about for the year under review.

Thank you.

15 MR NAIDU: In paragraph 8 you allege that the details regarding your profit and loss data have been supplied to the investigating team? --- Yes.

In paragraph 9, would you like to talk to the statements you make in relation to the broad impact on your bank of the rapid depreciation of the Rand? --- Yes, as I recall these particulars paragraphs are in responses to questions which were asked. In the first instance
20 the question was what the impact was of this rapid depreciation of the rand and it had an overall negative impact on our organisation and was of great concern to management and staff for various reasons not the least being the sentiment amongst staff in the organisation. The impact on our overall profitability as an organisation, as the paragraph outlines, was set off by gains or the overall profitability of the business but it did have a negative impact on
25 certain areas of our activities, in particular the interest rate activities where the rapid depreciation of the rand was followed by an equally significant upward move in interest rates at the time. In terms of the impact of the rapid depreciation of the rand on rand liquidity, we did not notice anything in particular in terms of our ability to fund ourselves during that particular month when this rise was taking place. On our operational stability, again similar to
30 the previous paragraph where I said that the diversification that we have within our organisation allowed us to not suffer significantly across the board in our overall operations. Our capital adequacy was also not negatively affected, in fact it was probably, the one positive thing that came out of it was that the value of our foreign assets obviously gained in value and that increase in value is in addition to your reserves. In the short term
35 shareholder's value may be enhanced for the very reason I have just outlined but we believe that in the longer term the fact that the rapid depreciation of the rand is probably negative for the country as a whole, it probably will result, would have resulted if it had been sustained at those sort of levels in being detrimental to our organisation. And finally, the weak rand, as we will see and no doubt have started to see, will have a negative impact on the inflation rate
40 and that will have consequences naturally for all of us.

Is there anything you would like to add to paragraph 10 of your statement regarding sentiment? --- I think that in conclusion we can say that from a sentiment point of view, as an individual and speaking on behalf of Investec as an organisation, we would not like to see a repeat of the rapid depreciation that we experienced during the month of December. I think
45 that volatility is something that, from a business point of view is not always a bad thing but the extent to which the currency moved at that particular time was not something that we would welcome a repeat of.

Thank you, Mr Chairman.

MS QUNTA: Mr Forlee, if you go to paragraph 8 of your statement, you talked about the
50 negative impact on your bank on account of the rapid depreciation of the rand. --- Yes.

Did the divisions of your bank that dealt in foreign currency, did it make a profit and did it gain from the depreciation of the rand last year? --- I can respond to that but my colleague, Patrick de Villiers, who follow and has more detail on that particular questions.

Perhaps he can deal with that. But I appreciate your concerns in paragraph 8 with
55 regard to question of confidentiality and I think the Commission has taken that into account. - -- Yes.

But perhaps, I think you understand the powers of the Commission with regards to the securing of information so that even if JSE Rules prevent us, if the Commission feels that it is important to have that information, and I am not suggesting right now that it is important, I
60 think we have taken into account the problems that you face as an organisation. But perhaps

it is just important to indicate that the Commission has wide ranging powers in terms of just securing information should it become necessary. --- I think we understand that.

MR NAIDU: Mr Commissioner perhaps you can record that the information has in fact been provided to the forensic auditors and the investigating team.

5 CHAIRPERSON: Yes.

MR NAIDU: If any specific detail is required by any member of the Commission they could well be made available.

CHAIRPERSON: Yes, so it would be given to us on a confidential basis, the Commission, it is not just for public consumption.

10 MR NAIDU: That is correct.

MR GANTSHO: Mr Forlee, in paragraph 7.5.2 you make reference to the securities lending, sourcing and lending of listed South African shares. Are you in a position to indicate whether Investec had at any point in time had any significant short scrip borrowing positions related to asset swaps within international offshore entities? --- I think that this again is a question that

15 would be more appropriately directed to a colleague of mine, Ms Pauline Trollip, who will follow.

That is fine. Generally from where you stand as the head of Treasury and Finance Group internationally, would you be able to indicate to us as to whether the asset swaps mechanisms were general knowledge in the market during the year 2001? Or is it a question

20 that I should be directing to Mr Patrick de Villiers perhaps later on?

--- Yes, I think that the question should be more appropriately addressed to Mr Patrick de Villiers.

Thank you, no further questions.

CHAIRPERSON: When you talk about asset swaps, the sort of thing that we have heard in

25 the past weeks? --- Absolutely, yes.

Mr de Villiers, when you come to give evidence, it is the sort of things we have been hearing about, what we call the Sasol, Nampak and M-Cell transactions. So when you give evidence, if you can think about that in the meanwhile, that is what we mean by asset swaps.

Right, any re-examination, Mr .. (indistinct), I am sorry I did not put you on record but

30 you represent Investec today.

MR ?: No questions

CHAIRPERSON: Thank you. Mr Forlee, you may stand down.

NO FURTHER QUESTIONS

PAULINE FRANCES TROLLIP d.s.s.

35 EXAMINATION BY MR NAIDU: Ms Trollip, are you currently employed by Investec as the Global Head of Treasure Compliance? --- I am.

And your qualifications and relevant employment history is set out in paragraphs 1 and 2 of your statement? --- Yes.

And you do confirm and adhere to the contents of your statement? --- I do.

40 And you appreciate that the statement constitutes evidence before this Commission? --- I do.

Your statement contains information and in your evidence you are going to deal with matters which are in your personal knowledge and matters which have been derived or information which have been derived from systems used in Investec, the data having been

45 extracted by the Investec employees? --- Yes.

You deal in paragraph 4 with securities lending. Is there anything that you would like to add or do you more specifically with the question posed by one of the Commissioners? ---

I just say that we are not aware of transactions entered into with other institutions other than Investec and we are not aware of the existence of any short scrip stock borrowing position or

50 related positions in underlying financial instruments subsequent to 1 September.

Subsequent to 1 September, and before then? --- We are not aware of any either but the question posed was for the period subsequent to the 1st but we are not aware of any.

Even before? --- Even before.

Thank you. In paragraph 6 you deal with CFC Accounts. Can you describe what

55 procedure is in place to monitor these accounts? --- Both CFC accounts and Vostro accounts referred to in paragraph 7 is not the core business of Investec. We have three CFC accounts and 14 Vostro accounts, so much of the monitoring is done manually. We did have a full audit which does not take long with three accounts on 15 January 2002 and the Reserve Bank was satisfied with that.

60 And in any event, were the full details of your balances in respect of both these

accounts submitted to the auditors? --- Correct.

In regard to your Group Risk Management, you deal in paragraph 8.3 with the various committees right down to 8.3.8. Paragraph 9 deals with your Exchange Control Compliance. Is there anything you would like to add to what is contained in your statement?

5 --- Only that on all aspects of risk management there is Exchange Control compliance or price risk. We sought to comply with international risk practice at all times.

Would you like to discuss paragraph 11, the Foreign Exchange trading with non-resident banks with particular reference to annexures PT1 and PT2 attached to your statement? --- Circular D225 on 10 June 1998 introduced not a new concept, one that
10 already existed, where it was incumbent on the authorised dealers to ensure that they receive written confirmation with regards to firm and ascertainable commitment and from overseas banks. There were representations made by authorised dealers following this whereupon circular D226 was introduced. This allowed the requirement to obtain written confirmation to be waived but the important thing to note is that it did not remove the
15 obligation of the authorised dealer to ensure that the transaction still fell within the ambit of Exchange Control.

CHAIRPERSON: So what was the difference then was that from 19 June 1998 until 14 October 2001 you no longer needed the written confirmation before you could do the deal? -
-- Correct.

20 MR NAIDU: Paragraph 12, is there anything you would like to add regarding foreign exchange trading with South African Corporates?

--- For South African corporates the process is slightly different. We do obtain documentary evidence from the corporate and check them as firm and ascertainable except with the larger corporates who are document exempt. The reliance has now passed back to the client to
25 ensure the Reserve Bank are happy that they have a firm and ascertainable commitment.

In paragraph 13 you deal with the minor contravention concerning exchange control contravention which occurred in your Private Bank Division during November. The evidence is that this was quickly detected and dealt with? --- Yes.

Are you able to say generally what the nature of that contravention was? --- It was
30 more of a clerical error surrounding the stamping of documentation rather than a deliberate contravention.

And save for those identified in 13.1 and 13.2 on page 23 you are not aware of any other contraventions in regard to that? --- I am not aware of any other.

Paragraph 14, would you like to talk of the problems that you identified there
35 associated with achieving effective compliance with Exchange Control? --- Section G, which is the main section covering derivatives, is ambiguous and does lead to different interpretations as to what is permissible. One thing that section G is quite clear on is that a firm and ascertainable underlying commitment must exist. Secondly, the difficulty in enforcing the compliance by non-resident banks of circular D342, I do not think there is a
40 bank to date that has a 100% return rate.

CHAIRPERSON: Is the difficulty getting the compliance certificates from the foreign banks? -
-- Yes, we had a lot of interaction initially, the compliance of the foreign institutions are very often far removed from the Forex business and they really were a bit concerned as to what was required of them. So we spent a lot of time and effort in trying to educate them and
45 some of them to this day are still reluctant, even though they have had advice from perhaps the legal division and the Forex division, they are still reluctant.

But we got some statistics yesterday that showed a very poor response to the request for compliance certificates, what has Investec's experience been, you may not have the statistics but just give us the sense? --- In the period from 15 October to 31 December
50 we sent 83 requests of which we received 51 replies, which I believe is a 62% rate. This was after many many hours on the telephone with various institutions.

MR NAIDU: Thank you, Mr Chairman, no further questions.

CROSS-EXAMINATION BY MR GINSBERG: Ms Trollip, if I may take you back to paragraph 11.1 of your statement and the purpose of my questions is to try and clarify in a historical
55 perspective the development of the ruling B17 and the circular D225 which you mention in paragraph of your statement. Now is it correct that under the ruling B17 there was a requirement that South African authorised dealers where necessary had to obtain from the foreign correspondent banks with whom they were dealing the names of the parties to the firm and ascertainable transaction and the detail of the transaction? --- That is correct.
60 When it relates to a corporate in South Africa that is quite easily done by receiving invoices,

bills of lading and such but when it comes to an overseas institution it is much more difficult because they hedge on, their exposure is on a portfolio basis and not necessarily on an individual transaction.

What I am trying to establish at the moment is what the requirements was, not the
5 difficulty or ease with which it could be complied with? --- That was the requirement.

And B17, as I understand it, has an in built limitation in it and that is that a South African authorised dealer could only deal with a foreign bank and not with a foreign corporate or foreign individual?

--- That is correct.

10 And of course there had to be under B17 and Circular 225 a firm and ascertainable transaction relating to both money coming into South Africa and money leaving South Africa?
--- Correct.

And this needed to be proved, this firm and ascertainable transaction, needed to be proved, did it not, by written confirmation in terms of Circular D225? --- Yes.

15 **CHAIRMAN:** Can I just pause there in regard to that, was the written confirmation to come from the foreign bank or from the local authorised dealer? --- It was, I think the onus was on the authorised dealer to receive it from the foreign bank.

And would written confirmation be in modern terms some sort of - I cannot think of the word - computer generated e-mail or something, would that suffice, was your
20 understanding, to written confirmation? --- Not at the time, no, not in 1998.

So what was written in those days, would you have to get a letter or fax or something? --- Well we needed to know the names and the nature of the underlying transaction and that was the difficulty with the overseas banks. The information was confidential.

25 **MR GINSBERG:** So at that stage you needed the names of the parties and the details of the transaction in writing? --- Correct.

And that to some extent involve the foreign bank disclosing perhaps what they might consider to be confidential information? --- Correct.

The name of the party. --- Yes.

30 And the details of the transaction? --- As well as the confidentiality on the proprietary positions.

But that was done? --- The written confirmation?

Yes. --- No, there were several discussions with the Reserve Bank .. (intervenes)

Well we will get to the development but I am just trying to get clarity on what was
35 required under B17 read with D225 and I will take you to the next step, if you do not mind, otherwise it is going to get a little confusing. And then in paragraph 11.2 you refer to Circular D226. Now you correctly point out that under Circular D226 the South African Reserve Bank waived the requirement of written confirmation which was required under Circular D225, so it was now no longer necessary for the foreign bank to record in writing the names of the
40 parties and the details of the transaction? --- Correct.

But certain things still remained and what remained was there had to be a firm and ascertainable transaction, is that correct? --- Yes, that is what I said.

And ruling B17 remained, that was not waived? --- I think the relevant parts of B17
yes.

45 Yes. And in PT1 to your statement, Mr Chairman, I am not sure what page PT1 is?
--- It is 25.

In PT1 on page 25 you actually quote circular D226 and, Commissioners, in the first paragraph, line 5, it reads: This arrangement does, of course, not absolve Authorised Dealers from complying with the general directives set out in section B17 and C10 of the
50 Exchange Control rulings and only applies in respect of certain other sections. So it is clear that B17, C10 is not relevant for present purposes, B17 applied. So that was the position under D226. Now we come to October 2001 which you refer to in paragraph 11.3. And am I correct in saying that under, that in October 2001, Circular 342, was it B342? --- D342.

Was issued by the Reserve Bank? --- Correct.

55 Now first of all, under that circular, as I understand it, B17 was no longer in force to its full extent? You will remember B17 was the one where you had to get the names of the parties and details of the transaction in writing? --- That is correct.

So to some extent that has been ameliorated, made easier, and I say that because it was replaced by the compliance letter in Circular D342 and here, Commissioners, could I
60 refer you please to the Reserve Bank bundle at page 342 and that compliance, that circular

says the following in regard to the compliance letter, that in the case of a correspondent bank, a written confirmation every two weeks to the effect that all transactions have been executed within the ambit of the aforementioned rules signed by the compliance officer is acceptable. Now that is why I say to some extent it has been made easier, you now no longer need the confidential information relating to the names of the parties and the details of the underlying transaction. What you need now is a compliance letter from the compliance officer of the foreign bank. --- Correct.

Would you agree that that is a amelioration of the previously stricter regulation under B17? --- Yes, we believe that the D342 was a genuine attempt by the Reserve Bank to assist the authorised dealers to fulfil their obligations. What was unfortunate was the process that the banks then had to follow through with compliance officers to obtain the certificates.

Well let us for the moment just focus on what it actually did and then perhaps later with the difficulties in practice. And then there was a further important limitation which was removed by Circular D342 and am I correct that the limitation that was removed, which was previously in B17, was that a South African authorised dealer could now deal with foreign corporates and individuals and that their dealings were not just limited to foreign corresponding banks? --- That is correct. Investec Bank Limited, as far as I am aware, does not have dealings with foreign corporates through the Johannesburg office.

But you could? --- We could.

Under Circular D342? --- That is correct.

So D342 had two very important, or perhaps two practical consequences. One is it made it easier to comply and, two, it broadened the ambit of the market with whom a South African authorised dealer could deal by not just limiting it to banks but expanding it to individuals and corporates? --- Correct.

Yes, thank you, I think that puts it in its correct perspective.

CHAIRPERSON: Questions by the Commissioners?

COMMISSIONERS: No questions

CHAIRPERSON: Thank you, Ms Trollip, you can stand down.

NO FURTHER QUESTIONS

PATRICK DE VILLIERS d.s.s.

EXAMINATION BY MR NAIDU: Mr de Villiers, since October 2000 have you assumed the role of the Global Head of Foreign Exchange trading at Investec? --- Yes.

And are you currently responsible for the trading desks in London, New York and Johannesburg? --- That is correct.

You have made a statement, do you confirm and adhere to the contents of the statement? --- Yes.

And do you appreciate that this constitutes evidence before the Commission? --- Yes.

You have testified previously before? --- That is correct.

The contents of your statement and the evidence you are about to give deals with matters which are within your personal knowledge and about which you obtained information from other Investec employees? --- That is correct.

You deal in paragraph 4 with foreign exchange trading. Is there anything that you would like to add to what is contained therein? --- No, I do not think so.

In paragraph 5 you deal with Market Risk, is there anything you would like to add? --
- No.

Paragraph 6 under the discussion relating to Limit Framework, I refer you to paragraph 6.2. Are you able to give some idea to the Commission about how Investec ensures that dealers do not trade for their personal account except for the occasions where they are specifically authorised by the Compliance Division to do so? --- With regard to dealing for personal account I will relate this to foreign exchange trading. The ability for a trader to transact in deals for his own personal account is made extremely difficult by all of the compliance rules and regulations which exist in the dealing with recorded telephones, integrated systems. So there are a number of processes. However, we do not have control over any traders' time outside of the dealing room and outside of the work environment and the foreign globe exchange market is a 24 hour market and unfortunately you cannot, you do not have control over them.

Like in the coffee shops for example? --- Yes.

What are your views in relation to paragraph 9 regarding profits derived from proprietary trading? --- As I have said that I do not think that profits made from proprietary

trading, market making, or other trading in the rand are unethical or improper.

And in so far as speculation where it involves the bank, what are your views? ---

Speculation, I go onto defined speculation in Investec's terms and we define anybody to be a speculator who uses the market to gain from a position with or without there being an underlying transaction. The simple decision by a corporate to hedge his underlying exposure or not to hedge it, is speculation in our view. I then go on to define three types of speculators and position traders who take on positions based on mathematical assumptions or long term economic views. Market makers who have to provide liquidity and pricing and types of pricing, day in day out as short-term speculators. And then finally, Arbitragers which in itself is not a particularly risky business. However, there is a certain amount of short term risk involved as an Arbitrager is trying to put on his complete position.

In paragraph 11 you identify the hot trading days and in paragraph 12 enumerated factors which in your opinion influenced the depreciation of the rand. Is there anything you would like to add to what is contained in your statement? --- I think these are factors which I did elaborate on in my previous testimony. It is what we felt as traders employed by Investec at that time.

Are you aware of any illegal or unethical transactions or actions by any person or entity during the period under review which might have contributed to the rapid depreciation of the rand? --- No, I am not.

Regarding any improper gain or improperly avoiding any loss, are you aware of any person? --- No.

What are your views regarding the entry, activity and exit of non-residents from the rand market? --- I think the entry and activity of non-resident financial institutions in the South African market is beneficial for the currency and the economy, the South African economy at large. The economy benefits from foreign entities aware of investment opportunities within our country. This combined with the ability to hedge themselves in the South African market makes it a lot easier for the banking community in South Africa in particular as we are not forced to have to deal with foreign financial institutions and therefore do not have to take credit exposure outside of our boundaries.

Do you have any views other than those articulated in paragraph 15 regarding the Reserve Bank circular D342? --- My view, as expressed by Ms Trollip with regard to D342, I believe it was a genuine effort by the authorities to somehow stabilise the currency through periods of major turmoil. However, we still believe that there was negative sentiment created in the international market, clearly throughout our discussions with foreign counter parties at that stage.

In paragraph 16 you include certain recommendations regarding the administration of exchange control and in paragraph 17 you make certain comments which you believe are relevant to the Commission. Is there anything that you would like to add? --- No.

Thank you, Mr Chairman.

CROSS-EXAMINATION BY MR GINSBERG: Just one question about Mr de Villiers' paragraph 12.1 You express an opinion in the opening paragraph of paragraph 12 that in your opinion the seven most important factors which influenced the depreciation of the rand are and then you mention as your first Circular D342. Does that mean you consider it to be the most important of the seven factors causing the rand to crash? --- I think we are looking at the entire period of 2001. These are seven views of sustained negative sentiment which I believe to be applicable.

In priority of importance or not? --- I have not necessary listed them here in priority of importance.

So the fact that you mention it first does not mean you consider it to be the most important? --- No, it is one of the major factors.

Now you heard the questions that I asked your colleague about the effect of that circular, that in fact far from being a retrogressive step, it was a forward-looking step and an easing to some extent of the previously strict regulations. Do you agree with that? --- I think after the analysis two weeks later when we had final clarity from the Reserve Bank we can agree. What we are stating is in the first week after the meeting on the Sunday, 14 October, there was a lot of uncertainty with regard to certain types of derivative structures in particular, derivative instruments.

Yes, perhaps I can just put some figures to you which the Reserve Bank has extracted from its records and which will be made the subject matter of its testimony on 7 May. You can accept that these figures have been extracted from the Reserve Bank. That

in December of last year the total transactions in the Forex market for the month of December averaged \$6 billion of which \$3 billion related to non-residents and you will recall at that stage the rand hit a low of R13,00 to the dollar. --- R13,85.

R13,84 - R13,85, yes. Now you might be interested to know that in February of this year the total value, average value of Forex transactions dropped to \$4,8 billion; that the involvement of foreigners dropped to \$2,2 billion but that the rand strengthened to R11,48. Now as a matter of causality, and I am just talking about causality here because you have said that Circular D342 caused the rand to fall. Now in the light of the figures I have given you, are you still so sure that that was one of the factors and, if so, why? --- Mr Ginsberg, the foreign exchange market trades around sentiment and whether local resident authorised dealers believe the Circular D342 was an alleviation of former rules in B17, the matter of fact is that foreign counterparts that we were speaking to did not see it in that light. They did see it in a negative light. The fact that D342 is still in existence with us today and that the rand has appreciated, I do not think the two are related because we were in a different trading environment in October versus February.

But since October you say there has been clarity on D342 and there has been a corresponding increase. If that is the causation you are looking at, there has been a correspondence increase in the value of the rand. So to be fair why do you not say that, why do you just focus on the negative sentiment? Why do you not give a balanced picture and say that now that the correspondent banks understand that things were liberalised that may have caused an up pick or are you not prepared to say that? --- No, what I am prepared to say is that we still have not seen a return of foreign players that were in the market after October, or prior to October, we have not seen the return of those volumes through our market.

But the point I am trying to make to you on the figures that I have given you is that a thinner market in February of this year has caused a firmer rand. So what I am suggesting is that your causality of the thinner market being caused by Circular D342 and a consequent crash of the rand, is not necessary causally linked because we have the figures of December and February which go the other way and therefore I am asking you the question if you are prepared to take a balanced view, why are you not prepared to accept that it could well have not been causally linked? --- There were a number of factors. There was negative sentiments throughout the year. You have the introduction of D342. Liquidity in our market is not only measured in terms of pure volume that is recorded through by the authorities. It is also related to the spreads which we see in the market and which we can trade on as traders. There was a sharp increase, if you look at the gradient of the rand after or let us say from October onwards to the blow out which we had R13,84 in December. One of the major reasons is the widening of spreads and spreads widen because fewer people are really prepared to either bid or offer in the market. What has happened since then is that yes we have seen a strengthening of the currency but I also believe to a large extent it is a level of R13,84 where local exporters thought that they had, that there was a lot of value in the currency and started to sell dollars into the market. So we are still sitting in a situation where the rand might have returned its economic value which is around R11,20. That I can only surmise but I am not saying, the rand was on a depreciating path prior to the Reserve Bank introducing Circular D342. What I am trying to point out here is that it was a genuine effort to stem the depreciating currency because in itself forward transactions and swap transactions - well swap transactions do not impact on the value of the currency as you will know. However, it does prevent people who do have long term speculative positions from rolling and maintaining those positions in our market. So as Ms Trollip has outlined, a compliance officer for a major banking group that sits in a country different from where her traders are sitting or his traders are sitting, in London possibly, will not sign a compliance letter until they understand the implications of that compliance letter and the directive would rather be until there is clarity from the South African authorities and South African correspondent banks for their traders to pull out of the South African market.

What part of those circulars did they not understand? Here I must ask you to be specific, there is a lot of general talk flying round about lack of clarity and lack of understanding. I would like you to explain to the Commission what it was in particular that they did not understand? --- I cannot answer that.

Well that is fine then. Then how can you use that as a reason? Let us try and not speculate about these things. --- I am not speculating, I am merely relating what the correspondent traders were telling us, that until their compliance officers had absolute clarity

and were prepared to start to sign their letters of compliance, they were asked to reduce their exposures.

You have got a 60% odd response from these people? --- Yes.

These compliance officers. Do you reckon that is not good? --- I think it has been
5 above the average.

So what is your point? --- My point is that there has been a lot of hard work and effort by the compliance officers within the bank.

Well that is why you make money, is it not, to work hard and put in effort. Yes, thank you, Mr Chairman.

10 MS QUNTA: Mr de Villiers, paragraph 12, you mention factors there which according to you influenced the depreciation of the rand. Are those the only factors and is that speculation on your part or an assessment or your view formed or is it fact and if it is fact are you able to provide the Commission with evidence that those factors contributed to the depreciation of the rand? --- Well I have listed a number of facts here but it is my personal opinion that
15 those facts that might have occurred during 2001 could have created the negative sentiment.

So it is speculation on your part, is it, or are you putting them forward as facts? ---

Well I am putting them forward as my opinion. I mean the reduction of the Net Open Foreign Position delay in Telkom is a fact but yes I am assuming that that led to the negative sentiment.

20 And I see in 12.7 you talk about importer and investor panic. Are you referring there to lead and like and that this might also have contributed to the depreciation of the rand? --- Sorry, what lead and .. (intervenes)

The importers delaying, exporters delaying the repatriation of funds? --- No.

That is not what you are referring to? --- No.

25 Are you able to state whether any transactions, whether they are legal or illegal in the course of 2001 contributed to the depreciation of the rand? --- No, I am unaware.

Are you unaware of are you saying that they are not there because I see they are not mentioned in paragraph 12. Are you losing transactions, are you excluding the possibility that transactions may have impacted on the depreciation of the rand? --- I think in my
30 previous testimony I did make a statement where I had mentioned, I believe, one off transactions or large importer hedges or exporter hedges have a short term impact on any currency market and that you can see in any currency traded throughout the world.

It is not a question, it is a statement, are you aware that the Commission is doing an investigation into authorised dealers, to look at whether there were transactions during the
35 course of 2001 which impacted on the depreciation of the rand. Are you aware of that? --- Yes.

And are you aware that in the light of results and evidence gained as a result of that investigation, this evidence you have given here may need to be evaluated and, if anything, there relates to Investec that you might be called to come back to the Commission. --- Yes.

40 MR NAIDU: And just to add also, Commissioners, that the banks have been informed that they will be given an opportunity to respond to the contents of the report before they are recalled to explain it.

MR GANTSHO: Mr de Villiers, are you in a position to respond to the question that I asked Mr Forlee or any your colleagues could respond to this. Now that it is general knowledge
45 from the evidence that was led to this Commission that there were financial structures of the type that was described or that were described as asset swaps or share placements, was it known to Investec, were these structures known to Investec or in the general market that they existed and if they were known to the market or to Investec, did dealers change their behaviour because of that knowledge and the knowledge that these financial structures could
50 impact on the reserves, the foreign reserves or on the currency, the rand currency values? --
- I think you are alluding to front running of any knowledge of large asset swap transactions that would be happening. I was certainly not aware of any transactions that were happening, nor do I think any of my dollar/rand traders were and therefore I do not believe that at any stage did they, front runner transactions that they might have known of this nature.

55 And there were no requests from the Reserve Bank to approve transactions of the type that was described as asset swaps or share placements? --- Not that I am aware of in our institution.

Thank you. The last question relates to cash management. From where does Investec manage its cash reserves, we heard from one of the foreign banks that the
60 management of its cash reserves is centralised and is it centralised outside the country as far

as Investec is concerned or is it managed, or are the reserves managed locally?

--- Well the reserves are managed in each jurisdiction.

There is no centralised management of cash balances? --- The international operations would do their own cash management, all the cash management relating to our 5 South African operation are centralised in Johannesburg. The majority of our foreign operations are, in fact all of our foreign operations are not branches, they are subsidiaries and therefore it is also a regulatory requirement that they are separately managed.

Are you in a position to give us your opinion as to what the impact would be of centralising cash management say in London where the cash reserves, the rand cash 10 reserves would be consolidated and converted to foreign currencies? Are you in a position to offer any opinion as to what impact would that have on the currency? --- No, but I mean .. (intervenes)

CHAIRPERSON: Perhaps Mr Forlee is the better witness. Mr Forlee, can you answer that question?

15 MR FORLEE: I think it is difficult to form an opinion on something that we are not able to do.

MR GANTSHO: As an expert in this field are you prepared to offer an opinion?

MR FORLEE: I think that if there were no exchange control limitations in South Africa and no limitations from a regulatory point of view in the UK market, if you actually managed it from a central point of view without converting your currency; in other words, leaving rand in rand 20 form there should be no impact on the currency.

MR GANTSHO: Is it possible to convert excess rand reserves into other currencies if that was the opinion of the central authority?

MR FORLEE: If we were allowed to do that, would have made sense for us to do it, it may.

MR GANTSHO: It may affect the rand.

25 MR FORLEE: It would be very difficult because it really depends on the risk parameters that you set for yourself in terms of net open currency positions, whatever they might be. It would also involve decision-making at that particular point in time taking into account whatever market conditions happen to be in play then.

Thank you.

30 CHAIRPERSON: Thank you, Mr de Villiers, that concludes your evidence and Mr Forlee's evidence.

NO FURTHER QUESTIONS

CHAIRPERSON: That is it for today, is it? We may as well adjourn for tea and then not return and we return, the Commission sits again next week only on one day, namely 17 April, 35 on Wednesday and three banks will be dealt with on that day.

PROCEEDINGS ADJOURN: