



PERSPECTIVES

ON THE ILLS

OF CORRUPTION

**SUPPLEMENT 4 OF 5
TO THE JANUARY – APRIL 2005
MONETARY POLICY REVIEW STATEMENT**

**DELIVERED BY THE GOVERNOR
OF THE RESERVE BANK OF ZIMBABWE
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1. FOREWORD

1.1 This paper is the fourth out of five supplements accompanying the January – April 2005 Monetary Policy Review Statement. The other four focus on:

a) Inflation Drivers In Zimbabwe;

b) Drought Mitigation and Resuscitation Programs for the Agricultural Sector in Zimbabwe;

c) Strategic Provincial Resources Allocation and Quick Turnaround Activities Based on the Concept of Comparative Advantage and

d) A Conceptual Framework on the “Buy Zimbabwean Campaign”

1.2 When we unveiled our Maiden Monetary Policy Statement on 18 December, 2003, the most far reaching and immediate challenge at that time was to restore order and discipline in the financial sector.

- 1.3 At that formative stage of the turnaround program, debilitating misuse of public funds by unscrupulous bankers threatened to throw the country's entire productive system into irreparable damage.
- 1.4 However, major strides have now been made in this critical sector whose performance is pivotal to the smooth-running of the economy.
- 1.5 As we unveil the Post Elections and Drought Mitigating Monetary Policy Framework, which should yet again hasten the turnaround program, **corruption** and **indiscipline** have surged as challenges that need decisive corrective measures, if our collective efforts to steer the fortunes of our economy to prosperity are to bear fruit.
- 1.6 It has become necessary, therefore, to make the giant step of **“unearthing” the forms of corruption** at play and aggressively working on their eradication.
- 1.7 However, in listing the forms of corruption and possible correction mechanisms, it was necessary to omit certain information that is strategic and would undermine the process. Suffice it to say that we know more than we are stating in this paper!

- 1.8 Industry and Financial Sector players are reminded that the task of turning around the economy lies with every Zimbabwean.
- 1.9 Unjust enrichment and selfish business practices should be subordinated to a spirit of development and transparency.
- 1.10 Borrowers should not be fooled in believing that they can get away with activities that are detrimental to the economy, and should also be reminded that Monetary Authorities are resolute in ensuring that undeserving elements are dealt with.
- 1.11 It is folly for us to hide behind black economic empowerment while we engage in self-destructive tendencies.
- 1.12 Good corporate governance and ethics should guide all institutions in Zimbabwe, from the vegetable stand at the green market to the listed conglomerate.
- 1.13 Economies the world over, and particularly in Africa, have been marred by the corruption plague. Much air-time and print space has gone towards the subject and yet most of these efforts have faded with the wind and documents gathered dust.

1.14 Zimbabweans have been known for being hardworking and resolute citizens. Let us prove to ourselves and to the world that we are just that, by exorcizing **CORRUPTION** once and for all!

DR. G. GONO

GOVERNOR

MAY 2005

2. CORRUPTION AND INDISCIPLINE

WHAT IS CORRUPTION?

2.1. The diversity and sometimes subtle nature of corruption tends to overshadow its debilitating effects in the economy away from detection, effectively prolonging under-performance in the key productive sectors of our economy.

2.2. Simply put, corruption refers to **an act or process by which a business, political, social, or religious transaction is effected on the back of bribery, in cash or in kind, directly or indirectly to one party or more in the transaction.**

COSTS OF CORRUPTION

2.3. From the above broad definition, it is discernible that **corruption is a costly cancer**, which if not exorcised, will continue to exact severe corrosive effects in the economy.

2.4. The following are examples of the main costs of corruption:

(a). It causes the collapse of service delivery levels, as office bearers cease to do what is naturally expected of them under their terms of

engagement, and instead, insist that **to perform, they must be paid an extra fee.** This is also inflationary, as it increases transactions costs.

- (b). It weakens and destroys key National institutions, when procedures and ethics are cast aside, as payment of bribes induces bending of rules and regulations to satisfy individual needs of those who pay bribes, at the expense of the upright citizenry.
- (c). It leads to mis-allocation of resources through diversion to non-core and non-productive purposes.
- (d). **It breeds and fuels economy-wide indiscipline,** as market-players are made to believe that there is wealth that can be made through breaching of regulations and rules, without any productive effort being invested.
- (e). It causes general moral decay in society, as the values of integrity, accountability and honesty are thrown to the wind, amid the rent seeking behavior patterns. This retards efficiency across the productive sectors of the economy.

2.5. The above costs of corruption, if untamed, have the capacity to derail the current turnaround program, in much the same way as the financial sector indiscipline threatened to destabilize the economy at the dawn of the first phase of the turnaround initiatives.

FORMS OF CORRUPTION

2.6. Corruption comes in many forms and an analysis of root causes of some of the current challenges are outlined below, followed by sector specific examples of corruption and indiscipline.

Investigations and consultations have revealed the following main forms of corruption in our economy:

2.7. Payment of bribes to law enforcement agents by fugitives in order to have their economic and other forms of crimes quashed.

2.8. Payment of bribes by traders – individuals and corporate, to ZIMRA officials for underpayment of taxes and import duties, as well as under-invoicing of export shipments.

- 2.9. Misrepresentation of facts by some Government Ministries with the effect of misdirecting public opinion and sentiment, which in turn, creates a false sense of security, particularly in the food and energy sectors of the economy.
- 2.10. **Outright diversion of resources from purposes for which they were provided into own use.** This includes productive sector funds, foreign exchange, and other support in kind, such as machinery and equipment, which is being diverted on the back of kick-backs and bribes exchanging hands.
- 2.11. **Smuggling of precious minerals and basic commodities** including sugar, grain, cooking oil, soap, and many others, which are sold into regional economies on the strength of bribes being paid to inspectorate arms of Government to pay a blind eye to the leakages.
- 2.12. **Flouting of tender procedures** and biased awarding of contracts, even to costly suppliers and contractors, on the back of patronage, kick-backs and bribes.

2.13. Patronizing and wasteful publicity and advertisement campaigns by the parastatal and municipal sectors, aimed at swaying Government policy into condoning their underperformance.

2.14. **Nepotism in key sectors and institutions**, where efficiency norms are set aside, for considerations other than productive efficiency.

2.15. Insider dealing, for instance on the Stock Exchange, as well as “**interested party effects**” on formulation of key Government policies, such as setting of producer prices.

INDISCIPLINE

2.16. Closely related to the challenges of corruption, both in form and effect are the hazards which come with indiscipline in the economy.

Such indiscipline takes the following forms:

2.17. Parallel market foreign exchange trading by individuals and corporates, under the noses of law enforcement agents.

- 2.18. Non-acquittal of CD1s and non-repatriation of foreign exchange by exporters.
- 2.19. Under-invoicing of exports, as well as overpricing of import bills for purposes of externalizing foreign exchange.
- 2.20. Overpricing of goods and services by producers and service providers.
- 2.21. Ad hoc rates increased by municipalities, derived from spurious assumptions and parameters that are completely unrelated to economic conditions prevailing in the economy.
- 2.22. Operation without licenses by illegal asset management companies and underground money lending institutions.
- 2.23. Hoarding of basic commodities for speculative purposes.
- 2.24. Tax evasion by individuals and corporates, which undermines the fiscal revenue base to support Government programs.

3. SECTORAL ANALYSIS OF CORRUPTION AND MALPRACTICES IN THE ECONOMY

3.1. Areas of concern in **nine major economic sectors** were identified as requiring attention in as far as corrupt tendencies are concerned.

ENERGY SECTOR

3.2. Investigations carried out indicate that since the liberalization of the fuel sector, there has been the proliferation of dubious foreign based petroleum procurement agencies with links to local fuel companies.

3.3. It has been revealed that a number of these foreign agencies, mainly in South Africa, are in fact, owned by Zimbabweans and it is suspected that these foreign fuel brokers are being used as conduits to externalize foreign currency.

3.4. It was established that there is a tendency by Direct Fuel Importers (DFIs) to hoard fuel for long periods of time for speculative purposes.

3.5. There is also the rampant abuse by fuel companies, of subsidized fuel meant for farmers.

INTERVENTIONS FOR THE ENERGY SECTOR

3.6. Foreign currency payment for fuel procurement should be made directly to established and approved foreign suppliers.

3.7. The Special Purpose Vehicle for fuel procurement should be dissolved and NOCZIM should take over fuel procurement, guided by agreed efficiency and delivery targets.

3.8. Stringent measures should be put in place to license fuel companies. Only companies with the required infrastructure should be licensed. A move should be adopted by the relevant Ministries to review the current licenses issued, with a view to streamlining the number of operators.

3.9. A policy should be put in place to limit the time that Direct Fuel Importers can keep imported fuel stocks.

3.10. The fuel subsidy granted to farmers has gone a long way in alleviating fuel problems in the agricultural sector. There is,

however, need to institute more stringent measures in monitoring the use of such fuel by the farmers.

TOURISM

Consumptive Tourism (Hunting)

3.11. There are leakages of foreign currency to offshore destinations and exchanging of hard currency through unofficial channels, perpetrated by some tourism operators such as:

- a) Under-Pricing of trophies and daily rates by safari operators (amount paid by observers and guests) and under-declaring of trophy proceeds on CD1 Forms for export purposes.
- b) Smuggling of trophies and live animals out of the country.
- c) Government officials working in cahoots with Safari Operators to facilitate over-hunting, leading to non-declaration of foreign currency proceeds on the TR2 Form, not to mention the excessive depletion of the natural resource.

- d) Inadequate completion of TR2 forms-failure to capture revenue earned by the Safari Operator for treatment and packing of trophies for hunting clients.
- e) Use of unregistered agents where there is no transparency in the accountability of foreign currency.
- f) Some Safari Operators use relatives and friends as their 'Agents' for collection of revenue offshore and the proceeds are stashed in Trust accounts and foreign bank accounts.

Hotels and Lodges

3.12. Booking Agencies (both local and foreign) collect foreign currency from tourists, on behalf of hotels and lodges but do not record the full earnings.

3.13. The Agencies receive instructions from the Operators to deposit foreign currency to their offshore bank accounts and the commission earned by these local agencies is also deposited into offshore accounts.

3.14. Hotels and lodges sometimes fail to complete TR1 Forms in non-compliance with Exchange Control requirements and this leads to non accountability in respect of the foreign currency earnings.

3.15. Zimbabwean based companies apply for dispensations to pay hotel bills for foreigners in local currency, when they hold conferences and seminars. Information at hand indicates that these companies would have received foreign currency in their offshore bank accounts.

3.16. Promotional airline tickets given to travel agencies for free are sold by the agencies in foreign currency, which is not declared to the authorities.

INTERVENTIONS FOR THE TOURISM INDUSTRY

Consumptive Sector (Hunting)

3.17. Monetary Authorities will seek to understand the intricacies of hunting operations in terms of hunting processes and charges so that the country is not prejudiced of foreign currency earnings.

- 3.18. Detailed audits should be carried out regularly on trophy dealers, particularly taxidermists.
- 3.19. The Parks and Wildlife Management Authority and other stakeholders should work on combating the smuggling of trophies and live animals out of Zimbabwe. Monitoring mechanisms should be set up outside Parks areas to deter over hunting.
- 3.20. The Reserve Bank will monitor closely and ensure that Safari Operators duly complete the TR2 forms and that all fees collected by agents is remitted to Zimbabwe.
- 3.21. Hunters should declare all foreign currency in their possession at the airport on entry and this should be captured electronically by ZIMRA. When leaving Zimbabwe the hunters' expenses should be compared to the foreign currency initially declared.
- 3.22. All agents who receive proceeds for Safari Operators offshore must register with the Reserve Bank. This will create transparency and accountability for foreign currency.

3.23. All safari operators should declare foreign currency earnings from clients including trophy fees, daily rates, observer fees, dipping and packing of client trophies and purchase of curios.

Non-Consumptive Tourism

- 3.24. All hotels and lodges should seek prior Exchange Control approval for opening offshore accounts, and returns in terms of actual bank statements should be forwarded to the Reserve Bank.
- 3.25. There is need to conduct a nationwide audit of hotel and lodge operations.
- 3.26. Hotels and Lodges should clearly declare the commission rate passed on to agents on their invoices, for transparency, and to ensure that the rate is in compliance with the prescribed Exchange Control commission rate, and to enable auditing of the local agents.
- 3.27. Efforts should be stepped up for all Operators to complete the TR1 form.
- 3.28. No dispensations to pay expenses in local currency should be given to foreign groups who come to attend conferences, workshops and seminars in the country.
- 3.29. There is need to audit promotional airline tickets given to agencies.

TRANSPORT

- 3.30. Some cross border transporters are not completing CD3 Forms in connivance with both ZIMRA officials and clearing agents.
- 3.31. Zimbabwean transporters are charging local exporters and importers in foreign currency. The foreign currency earned is not declared to authorities in line with standing Exchange Control regulations but rather traded on the parallel market.
- 3.32. Investigations have revealed that in some instances, foreign registered mechanical horses are used to pull Zimbabwean registered trailers across the border to avoid completion of CD3 forms. The Zimbabwean horse takes over after crossing into Zimbabwe. The foreign currency proceeds in this case are not declared at all.
- 3.33. There is no mechanism for accounting for the foreign currency earnings of passenger carriers. There is need for such transporters to issue tickets in foreign currency for foreign travelers and to account for the proceeds.

INTERVENTIONS FOR THE TRANSPORT SECTOR

CD3 FORMS

- 3.34. An electronic CD3 Form should be introduced. Whenever a CD1 declaration is raised to cover the goods being exported, the computer software should be programmed to automatically call for details of the accompanying CD3.
- 3.35. Where the transporter is foreign-owned and is not required to raise a CD3, the officer capturing the data should be required to indicate that the truck is foreign, enter its registration, ownership and contact details.

CROSS BORDER PASSENGER TRANSPORT

- 3.37 There is no specific legislation to regulate the operations of this sector other than the general exchange control regulations such as the requirement to bank all foreign currency earned by any Zimbabwean in Zimbabwe.
- 3.38 A control document should be introduced in the form of a receipt which should be completed by these transporters indicating the

total revenue collected for each trip, and the proper break down of the form of currency used to pay the fares. This declaration should be submitted to ZIMRA officials at the border for cross checking by various means including physical searches.

3.39 The bus companies which are in the cross border business should also be required to open foreign currency bank accounts in Zimbabwe where they deposit all their foreign currency earnings.

3.40 For all expenses incurred by such bus companies outside the country, receipts with full details of service provider, physical address and contact details should be produced to facilitate any follow ups. Beyond a certain limit all such expenses will require prior Exchange Control approval.

MINING

3.38. Most gold is sold to foreign clients illegally.

3.39. Small Scale Miners do not keep monthly production records. The lack of proper mining equipment by Small Scale Miners contributes immensely to gold leakages. Miners lack basic

equipment to engage in sound mining activities that would ensure steady mineral growth in Zimbabwe.

INTERVENTIONS FOR THE MINING SECTOR

3.40. Amendment of the Mines and Minerals Act should be treated as top priority to cover areas such as making it mandatory for miners and millers to furnish all relevant authorities with monthly production returns pertaining to:-

- a) Tonnage of gold ore mined and delivered to the milling plant
- b) Gold ore grade mined
- c) Quantities of free gold extracted from the ore milled
- d) The name of the milling centre
- e) Where the gold ore is delivered to
- f) The amount of gold recovered from the elution plant.

3.41. Gold buying licence – A thorough vetting exercise has to be carried out. There is need to set up a vetting committee that should include CID, Reserve Bank, Fidelity Printers and Refiners (FPR), the National Economic Conduct Inspectorate (NECI) and Ministry of Mines and Mining Development.

- 3.42. A long-term solution is the setting up of a platinum refinery plant in the country to achieve full beneficiation of the mineral.
- 3.43. FPR, Reserve Bank, Ministry of Mines and Mining Development, Police Gold Squad Unit and NECI must conduct joint audit visits to all gold producing centres to verify authenticity of production return figures submitted.
- 3.44. Minerals Marketing Corporation of Zimbabwe (MMCZ) to validate price values of all exported minerals in line with international price trends.
- 3.45. There is need to adequately equip miners to enable them to improve their production levels and minimize the temptation to sell to the parallel market.
- 3.46. Scanning and screening equipment at border posts should be improved to detect disguised gold being externalized in the form of “coffee gold” or jewellery.
- 3.47. Monetary Authorities will continue to periodically review the gold support price in line with production costs.

3.48. Increase gold buying centres manned by FPR personnel.

3.49. Issuing of gold buying licenses must be linked to monthly gold output targets to achieve the annual targeted output.

AGRICULTURE

Horticulture

3.50. Inflating of extra-territorial expenses. This is prevalent in air freight and handling charges where pre-shipment finance is required.

3.51. Payment of local experts and senior executives in foreign currency in offshore accounts.

3.52. Entering into agreements that have foreign currency implications without prior Exchange Control approval.

3.53. Deducting expenses at source by marketing agents.

3.54. Excessive selling commissions of up to 25% against the limit of 7 ½ %.

- 3.55. Excessive royalties leveled by breeders of 6% against the limit of 5%.
- 3.56. Diversion of export proceeds to offshore trust accounts or other offshore accounts belonging to farmers.
- 3.57. Under invoicing of exports by preparing two invoices with different values, one for official/acquittal purposes and the other for the actual revenue earned.

General Agriculture

- 3.58. Abuse of Productive Sector Facility, through diversion of money to other activities like the purchase of luxury vehicles, real estate and money market investments *inter alia*..
- 3.59. Approval of unwarranted loan rollovers for clients by some banks.
- 3.60. Selling of farm equipment, especially tractors and irrigation equipment bought using public sector facilities. The sale is mainly for personal gain.

3.61. Sale of farming equipment in foreign currency payable offshore.

INTERVENTIONS FOR THE AGRICULTURE SECTOR

3.62. Disbursement of farming finance should be done through commercial banks and the banks should ensure that the finance is used for the intended purpose.

3.63. Collection of repayments should be deducted through a stop order system generated by, for instance GMB. This system would stop beneficiaries from side marketing and repaying using cash.

3.64. Politicians should encourage farmers to run farms like businesses and to repay all monies accessed through the input scheme. Presently some politicians misinform farmers that the input scheme is a result of their individual efforts and as such, those who supported their campaign programmes may not feel obliged to pay.

3.65. Institute command agriculture whereby farms are designated to produce certain crops including the output quota. This will enable effective allocation of inputs. This will also flush out non-performers.

MANUFACTURING

3.66. Some manufacturers create artificial shortages through deliberately slowing down production and the few products produced are channeled to the parallel market either directly or through wholesalers.

3.67. Manufacturers are fuelling the parallel market by sourcing and disposing foreign currency using unofficial channels.

3.68. Externalization of foreign currency by these manufacturing companies through under invoicing of exports, over invoicing of imports and non acquittal of CD1s.

3.69. Failure to return plant and equipment exported on a repair- and-return basis.

3.70. Unjustified foreign expenses, such as management and consultancy fees as a way of externalization.

INTERVENTIONS FOR THE MANUFACTURING SECTOR

3.71. Exporters should be given more incentives and support to increase their exports through a devaluation exercise or very low interest rates to improve their revenue. The 7% currently earned by banks for export proceeds sold to the RBZ should benefit the exporters.

3.72. Monetary Authorities will continue to assist exporting manufacturers in the procurement of production machinery to resuscitate and increase production.

3.73. An autonomous body, guided by either the Reserve Bank of Zimbabwe or the Ministry of Finance should be mandated to manage subsidies provided to all sectors.

DISTRIBUTION AND RETAIL

- 3.74. Holding on to basic commodities in anticipation of price increases. Employees of retailers also channeling products to the black market.
- 3.75. Repackaging of products by informal traders and sold at exorbitant prices.
- 3.76. Some retailers are buying foreign currency parallel market rates in order to facilitate imports of various products e.g. electrical, clothing, toys etc. This is continuously destabilizing and weakening the local currency against the major trading currencies.
- 3.77. Deliberate packaging of basic commodities in large quantities, (e.g. 20litres cooking oil, 50Kg sugar) to evade price controls.

INTERVENTIONS FOR THE DISTRIBUTION AND RETAIL SECTORS

3.78. Industry and Trade Inspectorate, together with other law enforcement agents, should closely study and monitor trends on commodity availability and market behaviour, in order timeously address any anomalies

3.79. This requires a well equipped inspectorate that is proactive in administering the Control of Goods Act and supporting legislation. Dialogue with major wholesalers and retailers on prices and distribution is essential.

3.80. The long awaited Economic Crimes Court should ensure speedy prosecution of defiant traders.

3.81. Manufacturers and wholesalers to closely monitor deliveries that are finding their way into the black market.

3.82. Improved awareness of prices through a weekly consumer alert

3.83. There is need for moral suasion by the Authorities through relevant trade associations.

REAL ESTATE

- 3.78. The sale of properties in foreign currency where the seller is paid in local currency and the estate agent withholds the foreign currency to trade it on the parallel market.
- 3.79. Some sellers are being paid off-shore.
- 3.80. Renting property to clients in foreign currency and the foreign currency offloaded onto the parallel market.
- 3.81. Selling of properties in cash which is used on the black market to acquire foreign currency for externalization.
- 3.82. Some Estate Agents charge excessive rentals, totally inconsistent with market levels.

INTERVENTIONS FOR THE REAL ESTATE SECTOR

3.83. Regular inspections of sale agreements and financial records, and raids on property companies should be conducted.

3.84. Legislation should be put in place on the maximum period a property company should take to finish developing land and disposing of it.

3.85. Use of cheques and electronic funds transfer should be encouraged for acquisition of property rather than cash-based transactions.

3.86. Municipalities should sell land directly to bereaved families and not to funeral parlours to avoid exorbitant mark ups and speculation.

3.87. Tenants committees should be encouraged to approach property companies to ensure that maintenance is done promptly and up to standard.

FINANCIAL SECTOR

- 3.88. Printing of fake bank notes and cheques.
- 3.89. Encashment of fraudulently drawn cheques in collusion with bank staff.
- 3.90. Abuse of holiday travel allowances by staff members of banks.
- 3.91. Abnormally high bank charges and the flouting of the Bank Use Promotion regulations by, for example levying of fees for transfers between accounts held within the same bank.
- 3.92. Micro-finance institutions have been noted to lend money without being clear to the clients on the terms of the loans. Clients find themselves in a predicament where some are unable to pay the loan when it is due.
- 3.93. Opening of fake/fraudulent accounts for the purposes of facilitating money laundering and fraud. Bank officials are ignoring the Know Your Customer (KYC) principles.

- 3.94. Ghost pensioners' files opened in the Pensions Office for siphoning out funds.
- 3.95. Non-adherence to Exchange Control procedures in the handling of CD1's.
- 3.96. Unnecessary delays by banks in disbursing funds approved at the foreign exchange auction
- 3.97. Staff collude with clients to invest PSF funds for purposes of assisting the client to repay old debts held with the same bank.
- 3.98. Corrupt bank officials/Executives involving themselves in underhand deals such as availing themselves loans to participate on the parallel market and other speculative purposes.
- 3.99. Submission of false returns to the Reserve Bank which reflect sound business positions.
- 3.100. Abuse of FCAs mostly by some members of society who buy foreign currency on the parallel market, deposit it in FCAs and eventually remit it abroad. The same community is enticing property owners to sell space by paying them rentals in forex.

INTERVENTIONS FOR THE FINANCIAL SECTOR

- 3.101. Introduction of new notes with enhanced security features to replace bearers` cheques.
- 3.102. Stringent controls should be introduced to combat cheque fraud, e.g. introducing 24 hour clearance for encashment of large amounts.
- 3.103. In the case of holiday allowances, introduce an Exchange Control acquittal requirement to confirm travel and to specify the amount allocated per day.
- 3.104. Reserve Bank of Zimbabwe should penalize heavily all banks violating the statutes on bank charges.
- 3.105. The Reserve Bank should put in place a general formula on how interest charges should be levied by banks and this should be closely linked to overnight and inflation rates.
- 3.106. Standardize and enforce the operations of micro finance companies.

3.107. Periodic or Random inspections of banks to check on compliance with KYC procedures and Exchange Control regulations.

PUBLIC SECTOR AND PARASTATALS

3.108. Diversion of resources, including PSF funds to non-core expenses e.g. senior officers' benefits and salaries.

3.109. Utilisation of government equipment for personal gain.

ZIMRA

3.110. Allegations are rife on cases where officers are known to facilitate smuggling of goods and currency in and out of Zimbabwe.

3.111. Exports being allowed without CD1s or CD3s, undervaluation on exports and imports through bribery and collusion.

3.112. Officers are also lax in enforcing controls on currency, gold and other restricted goods like wild life trophies.

Tender Board

3.113. There is use of insider information in the allocation of tenders.

3.114. Abuse of political power by certain well known individuals to acquire tenders.

NRZ.

3.115. Corruption in the purchases department where purchases below a threshold that do not go through the Tender Board are subsequently awarded to favoured suppliers for kickbacks.

3.116. The purchasing of unwanted, inappropriate or obsolete equipment to siphon funds out of the institution for personal gain.

VID

- 3.117. Fraudulent allocation of driver's licenses.
- 3.118. Granting of permits to un-roadworthy vehicles.
- 3.119. Fraudulent issuance of international road permits.
- 3.120. Abuse of toll fees at border posts.

Immigration Department

- 3.121. Abuse and non-accountability of visa fees.
- 3.122. Improper awarding of immigrant permits for fees.
- 3.123. Allowing entry to prohibited/ or non-qualifying individuals for a fee.

Parks and Wildlife Management Authority

- 3.124. Selective awarding of hunting fees and licenses for kickbacks.
- 3.125. Abuse of hunting quotas for personal gain.

The Police

3.126. Interference with evidence and connivance with suspects.

3.127. General corrupt tendencies such as lack of dedication to cases to enforce prosecution.

3.128. Deliberate misinterpretation of the law.

INTERVENTIONS FOR PUBLIC SECTOR AND PARASTATALS

3.129. Appointments to senior positions should be based on qualification and experience.

3.130. Minimum government interference in the operations of parastatals.

3.131. Setting up of purchase committees and the strengthening of the internal audit function within the parastatals.

3.132. Setting up of performance targets for senior management and improvement of working conditions.

3.133. Centralized issuance of visas at Zimbabwean Embassies.

3.134. Secondment of Reserve Bank officials to selected Border posts and airports to enforce Reserve Bank controls and to assist the ZIMRA officials.

NEED FOR A RESPONSE STRATEGY

3.135. The above examples clearly indicate that **corruption has become a major pivot for our socio-economic challenges, requiring that a comprehensive response strategy be implemented in order to preserve the turnaround momentum.**

4. ABUSE OF PRODUCTIVE SECTOR FINANCE (PSF)

4.1. The distressed state, in which some companies found themselves in, by January 2004, necessitated the introduction of concessional funding to targeted sectors.

4.2. The funding was aimed at increasing productivity, increasing supply of goods and services, generating foreign currency through

increased exports and employment creation, among other objectives.

4.3. Monetary Authorities had to address the negative impact of a dual interest rate policy as it relates to increased money supply, increased demand for foreign currency, curtailing the dependency syndrome, pressure on the stock market and the risk of non-performing loans.

4.4. However, faced with imminent company closures and job losses, it was necessary to take the bold step of advancing the funds under the Productive Sector Facility and the distressed companies fund as tabulated below:

Table 1: Sectoral Distribution of PSF Support to the Private Sector

Sector	Amount - \$bn	%age of Total
Agriculture	1,174.7	40.86
Manufacturing	921.3	32.05
Mining	499.0	17.36
Transport	81.4	3.10
Tourism	89.2	2.83
Construction	65.8	2.28
Distribution	23.1	0.83
Communication	16.8	0.58
Health	3.4	0.11
Total*	2,874.7	100

4.5. Monetary authorities provided the funds in good faith, while implementing strategies to deal with the expected negative impact, as outlined on paragraph 4.3.

ABUSE OF PRODUCTIVE SECTOR FUNDS

4.6. A section of irresponsible industrialists and those who **only shed crocodile tears to win support** emerged in the form of abusers of the concessional funding.

4.7. Overnight gains and speculative activities became rampant among some beneficiaries of the low-cost funding. Some of the abuse took the following form:

Financial Sector

- a) Delay in passing on funds to borrowers by some financial sector players.
- b) Financial Sector players deliberately withholding early loan repayments made by some borrowers, hence reducing the availability of funds to other borrowers.

Borrowers

- c) **Re-channelling of productive sector funds to non-productive uses** such as dividend payment, real estate and money market investments, among others.
- d) Misrepresentation at application where, for example, funds are allocated to a holding company but subsequently utilised on ineligible strategic business units with the group.
- e) Borrowers inflating their requirements thus remaining with large chunks of idle liquidity.

CORRECTIVE MEASURES

- 4.8. The responsibility for correcting the situation is not that of the Reserve Bank alone, but for all who have **the means, information and authority to join hands in the task.**
- 4.9. The immediate action required and possible responsibility synergies among stakeholders, is tabulated under Annexure 3.

5. REVIEW OF CORPORATE GOVERNANCE PRACTICES IN THE FINANCIAL SECTOR

BACKGROUND

5.1. For one to appreciate developments in the financial sector, as well as the Reserve Bank's resolute responses to these challenges, it is necessary to note the situation that obtained in that sector prior to the Monetary Policy Statement of December 2003.

5.2. Major structural and operational deficiencies existed in the financial sector, some of which were:

- a) Liquidity and solvency challenges**
- b) Capital adequacy constraints**
- c) Poor risk management**
- d) Poor corporate governance**
- e) Speculative tendencies through diversion from core banking activities.**
- f) Proliferation of unregulated institutions.**
- g) A lax supervisory role on the part of the Central Bank.**

- 5.3. Government, Monetary Authorities and the financial sector have over the past 17 months worked relentlessly to restore integrity, safety and stability to the financial sector.
- 5.4. Curatorship and bank closures, though undesirable, became inevitable in the process. **Many casualties in the form of innocent, unsuspecting depositors faced severe hardships due to the process.**
- 5.5. However, this was part of the warning presented in the maiden Monetary Policy Statement, page 66 paragraph 35d) and e)....”**if you want honey, you must be prepared to be stung by the bees”..... time will tell whether individually and collectively as a nation we are prepared and ready to “be stung by the bees!”**

AN OUTLINE OF THE STRUCTURAL & OPERATIONAL DEFICIENCIES OF THE FINANCIAL SYSTEM

Liquidity and Solvency Problems

- 5.6. Spurred by illegal speculative non-banking business and activities, the period 2003 to mid 2004 witnessed an increasing number of institutions approaching the Reserve Bank for liquidity support.
- 5.7. The banking industry also became increasingly dependant on volatile, non-interest sources of income, including parallel market trading and purchasing of non-banking assets. These activities compounded the liquidity challenges in the sector.

Capital Adequacy Problems

- 5.8. As a result of illicit dealings with insiders and related parties and in part, due to operational losses, a number of banking institutions failed to meet the prescribed prudential capital adequacy ratios.

5.9. Some banks were involved in illicit and unethical practices in contravention of the Banking Act [Chapter 24:20] involving the use of depositors' and borrowed funds to create an illusion of adequate capitalisation.

Poor Risk Management

5.10. Meanwhile, inadequate risk management practices and systems, including poor management information systems, exposed banking institutions to increased liquidity and solvency challenges.

5.11. The proliferation of speculative activities in the financial sector led to an insatiable demand for speculative funds; which in turn fuelled unsustainable interest rate hikes thereby exposing banks to high levels of liquidity risk.

Poor Corporate Governance

5.12. The financial sector was then replete with poor corporate governance structures characterised by improperly constituted

boards of directors, poor board oversight, inadequate, inexperienced management, and undue influence or domination by leaders with a high concentration of shareholding influence.

5.13. Some banking institutions unethically maintained two sets of documents; one set illustrated with high profile individuals for regulatory convenience at licensing, and another set reflecting the correct profile of the institution.

Diversion from Core Business to Speculative Non-Banking

5.14. There was unprecedented abuse of associate companies and/or related parties to effecting elaborate schemes designed to enable banks to venture into non-banking activities, evade regulation, and channel depositors' funds to non-regulated entities such as asset management or investment companies.

5.15. In some instances, banks went so far as to borrow funds from the Reserve Bank to fund non-banking subsidiaries and associates' requirements.

Proliferation of Unregulated Institutions

5.16. Prior to January 2004, there was a proliferation of unregulated financial institutions including asset management companies. Most asset managers were engaged in speculative activities on the stock market, real estate, illegal foreign exchange deals and lending activities. The speculative deals were founded on unsustainable get-rich-quick schemes.

5.17. The formalization of the asset management sector has rightfully narrowed the scope for speculative transactions. This in turn has led to reduced profitability for some asset managers who cannot command the required critical mass to generate sustainable fee based income.

6. RECOMMENDATIONS AND WAY FORWARD

6.1. In order to maintain the momentum on our turnaround program, a strong response framework needs to be put in place to decisively deal with these vices.

6.2. Below are the broad strategies that we envisage to form part of the response frame work, **apart from the other strategies already stated in the respective sections.**

Anti-Corruption Legislation

6.3. We propose that more punitive pieces of legislation be introduced to deal with instances of corruption and indiscipline in the economy.

6.4. Remedial measures and instruments for such pieces of legislation should be punitive enough to have a lasting deterrent effect.

Expanded Judicial System

6.5. The country's ability to discourage devious behavior is largely a function of the swiftness with which cases of fraud, indiscipline and corruption are dealt with in the courts.

6.6. To this effect, we strongly recommend the formation of nation-wide anti-corruption courts that will expedite court cases in a deterrent manner.

6.7. We applaud the current initiatives towards the creation of Economic Crimes Courts, but this framework has to be followed through by capacity building initiatives, towards which as your Central Bank, we are ready to provide the necessary financial resources.

Re-orientation of Law Enforcement Systems

6.8. The increased instances of fraud cases being perpetrated under the noses of law enforcement agents is a cause for grave concern.

6.9. As a Nation, we need to **declare a new war against corruption** by declaring a zero-tolerance for corrupt police officers in our system.

6.10. Enhancements to the Police Charter could also be effected, in a manner that makes it “unheard of” that police officers can contemplate partaking in devious practices.

Ministerial Responsibilities

6.11. One way to tame the vagaries of indiscipline and corruption is to promote increased levels of accountability in Ministries, such that perpetual deviation by stakeholders in a given ministry triggers the respective heads of ministries to account.

6.12. Maintenance of the turnaround momentum also requires that ministries be much more in touch with conditions and realities obtaining on the ground, so as to correctly guide policy.

Anti-corruption Commission

6.13. As Your Central Bank, we immensely applaud the anti-corruption efforts that are already being made, with the creation of a dedicated Ministry to deal with this ill.

6.14. In order to strengthen this framework, we recommend the formation of a National Anti-corruption Commission, which would be appropriately empowered, to comb virtually all sectors of the economy of this ill vice.

6.15. The Commission could encompass stakeholders from across all key sectors of the economy to enhance buy-in and effectiveness.

De-licensing Clause

6.16. One way to discourage corruption and indiscipline is to introduce a de-licensing clause on all business operations that require any form of licensing.

6.17. Under this approach, any entity will be issued with an operating license on condition that the license will be automatically

suspended, and later struck off on any instances of indiscipline or corruption.

Anti-corruption Charter

6.18. At the National level, we could also come up with an Anti-Corruption Charter, which would set the minimum guidelines and benchmarks that corporates and individuals in business should comply with on a day to day basis.

6.19. This Charter would then be bolstered by series of codes of conduct that are tailor-made to suite industry/sector-specific circumstances.

Anti-Corruption Bureau

6.20. Another lever that tends to be wieldy in fighting devious practices is the introduction of a widely circulated publicity framework, under which defaulters are periodically published and reprimanded in the public domain.

6.21. This could take the format of an Anti-Corruption Bureau, which would collect and disseminate data and other developments on indiscipline and corruption related cases.

6.22. Such a “**name and shame**” **publicity instrument** has immense potential in deterring deviation.

7. CONCLUSION

7.1. The initial plan was to correct anomalies in the financial system by the end of 2004 so as to begin 2005 on a new slate. The objective has by and large been met. However this is not yet the time to rest on our laurels as there is always need to improve on existing structures and policies.

7.2. The Central Bank welcomes recent calls by the Bankers’ Association of Zimbabwe for banking institutions to strive to operate within the confines of the law. Such peer review is essential for the stability of the financial system.

7.3. The Reserve Bank will also sharpen skills in supervision, surveillance so that such tools as the early warning system are used to avert the likelihood of punitive action such as liquidation or curatorship, which is the subject for the following section.

- 7.4. Indiscipline and corruption have become a major setback and threat to the sustainability of the turnaround program.
- 7.5. Efforts that seek to address the current economic challenges, therefore, need to be buttressed by a strong discipline enforcement mechanism, as well as a robust anti-corruption drive at the National level.

8. ANNEXURE 1: SUMMARY OF CORRUPTION CAUSE-EFFECT PARADIGM

EFFECTS OF CORRUPTION					
General indiscipline in the economy.	Foreign exchange shortages	Decline in national production	Shortages of basic commodities	Deterioration in social service standards	Rising inflationary pressures
<ul style="list-style-type: none"> • Flouting of regulations • Weakening law enforcement structures • Porous ZIMRA structures • Non-punitive legislation • Slow judicial system 	<ul style="list-style-type: none"> • Externalization • Under-invoicing of exports • Overstatement of import bills • Non-remittance of exports proceeds • Smuggling of precious minerals 	<ul style="list-style-type: none"> • Funds diversion • Weakening Institutions • Infrastructure decline • Hoarding of land by multiple owners. 	<ul style="list-style-type: none"> • Smuggling • Hoarding • Overpricing • Declining production 	<ul style="list-style-type: none"> • Resource diversion • Bribes as precondition for service delivery • Institutional deterioration 	<ul style="list-style-type: none"> • Speculation • Supply shocks • Mark-ups to recover costs of bribes • Liquidity growth arising from “corruption wealth.”
CAUSAL FACTORS					

9. ANNEXURE 2: SECTOR-SPECIFIC CORRECTIVE MECHANISMS

CASES OF CORRUPTION AND INDISCIPLINE	ACTION REQUIRED	RESPONSIBILITY
<p>ENERGY SECTOR</p> <p>Bogus fuel brokers externalizing foreign currency.</p>	<p>Procurement should be made by established and approved foreign suppliers</p>	<p>Law Enforcement Agents/ The Public-Whistle Blowers facility/ Government/ RBZ/ Petroleum Marketers Association</p>
<p>Fuel Importers holding on to product to influence price</p>	<p>Fuel sector needs to be streamlined to ensure that only credible participants operate.</p>	<p>Government/ RBZ/ Petroleum Marketers Association/ The public-Whistle Blowers facility/Media</p>
<p>Abuse of fuel intended for farmers</p>	<p>Stringent monitoring mechanisms need to be established to ensure that fuel intended for agriculture is used for its intended purpose.</p>	<p>Government/ NOCZIM/ Petroleum Marketers Association/ RBZ/ ZRP/ Media</p>
<p>TOURISM SECTOR</p> <p>Hoteliers and booking agents externalizing foreign currency</p>	<p>Private sector to act more responsibly.</p> <p>Monitoring mechanisms need to be enhanced.</p>	<p>Zimbabwe Council for Tourism (ZCT), Zimbabwe Tourism Authority (ZTA)</p> <p>RBZ/ Government/ ZTA</p>

CASES OF CORRUPTION AND INDISCIPLINE	ACTION REQUIRED	RESPONSIBILITY
Non-completion of Tourism Return Forms	Penalties for non-completion of Tourism Return Forms should be more punitive, to deter repeat offences.	Government/ RBZ/ ZTA
Smuggling of trophies and wild animals outside the country	Law enforcement agents in partnership with other stakeholders such as the Parks and Wildlife Management Authority need to step up their anti-poaching and smuggling drive.	ZRP/Government/ZIMRA/Media/ZTA
Under pricing of trophies and wild animals.	Safari Operators should be motivated to charge competitive rates through a carrot and stick approach.	Government/ RBZ/ ZTA/ZIMRA
CROSS BORDER TRANSPORTERS		
Understating foreign currency earnings	Monitoring mechanisms need to be enhanced.	Government/ RBZ/ ZIMRA
Non submission of Currency Declaration (CD3) forms	Penalties for non-completion of CD3 Forms should be more punitive, to deter repeat offences.	Government/ RBZ /Legal System/Law Enforcement Agents

CASES OF CORRUPTION AND INDISCIPLINE	ACTION REQUIRED	RESPONSIBILITY
MINING		
Parallel market trade in metals and other minerals	Monitoring mechanisms need to be enhanced.	Government/ RBZ/ZRP/Legal System/The Public-Whistle Blower facility
Smuggling of minerals outside the country	Penalties for smuggling need to be reviewed to deter such offences.	Government/ RBZ/ Private Sector/ Media/ZIMRA/ The Public-Whistle Blower facility
AGRICULTURE		
Under- invoicing of agricultural exports	Audit systems need to be enhanced with punitive measures being required to discourage such practices.	Government/ RBZ/ Farmer Unions and representative bodies/ZIMRA
Abuse of concessionary funds	The full amount due must be called back, with future windows of support being closed.	RBZ/ Government/Banks/ Legal System
Non-payment of loans	The law must be allowed to take its course in the recovery of such amounts, to ensure that such offences discouraged.	Government/ Media/Legal System/ RBZ/ Banks
Un-productive use of land	Land must be given to productive individuals and withheld from unproductive 'farmers'	Government/ Farmers/ Media/ Legal System

CASES OF CORRUPTION AND INDISCIPLINE	ACTION REQUIRED	RESPONSIBILITY
REAL ESTATE Pegging prices and rentals at parallel market rates	Combat parallel market activity.	Legal System/ Law Enforcement Agents/ Real Estate Sector representative bodies/ Public-Whistle Blower facility
Selling houses in foreign currency and externalizing this amount	Review legal system to discourage such offences.	Government/ Media/ Civic Groups/ Public-Whistle Blower facility
MANUFACTURING Supply of products to the black market at the expense of the formal market	Combat black-market trade in basic commodities.	Public-Whistle Blower facility/ ZRP/ Legal System/ Consumer Council of Zimbabwe/ Industry representative bodies
Under-invoicing of exports	Implement mechanisms to detect under-invoicing and introduce punitive penalties	ZIMRA/Law Enforcement Agents/ Legal System
Non-acquittal of CD1 Forms	Punitive action to be taken on defaulters to discourage repeat offences.	RBZ/ Law Enforcement Agents
PUBLIC SECTOR AND PARASTATALS Subverting the national interest for personal gain through bribery.	Instill sound ethical practices within public and parastatal organisations.	Legal System/ Government/ The Public-Whistle Blower facility

10. ANNEXURE 3: PSF FORMS OF CORRUPTION AND INDISCIPLINE

10.1. Below are strategies most of which are under implementation, which the Bank and stakeholders will continue to use in curtailing the abuse situation.

Form of Corruption/Indiscipline	Action Required	Responsibility
Deliberate delay in passing on funds to borrowers by banks, to cover own market positions and investing funds for own benefit.	Penalize banks using the prevailing unsecured overnight rate for the period of deviation.	<ul style="list-style-type: none"> ▪ RBZ ▪ Banks ▪ Legal System
Submission of applications for eligible but non-deserving borrowers who proceed to utilize PSF resources for ineligible purposes e.g. payment of dividends, investing in the money market, real estate and other speculative activities.	<p>Immediate recalling of all outstanding PSF loans. Interest to be computed using unsecured overnight rate from the date funds were disbursed by RBZ.</p> <p>Suspension of perpetrators from benefiting from the facilities in future.</p>	<ul style="list-style-type: none"> • RBZ • General Public-Whistle Blower facility • Law Enforcement Agents

Form of Corruption/Indiscipline	Action Required	Responsibility
<p>Fraudulent submission of applications in the name of an eligible borrower but channel funds to non-eligible borrowers upon disbursement of funds by RBZ.</p>	<p>Immediate recalling of all outstanding PSF loans. Interest to be computed using unsecured overnight rate from the date funds were disbursed by RBZ. Suspension of perpetrators from benefiting from the facilities in future Bank to be excluded from participating under the facility. Prosecution of officials involved for fraud/misrepresentation.</p>	<ul style="list-style-type: none"> • RBZ. • Law Enforcement Agents. • Legal System
<p>Inflating requirements by borrowers thus crowding out other deserving borrowers.</p>	<p>Suspension of perpetrators from benefiting from the facilities in future. Excess amount to attract penalty interest rate</p>	<ul style="list-style-type: none"> • RBZ • Banks
<p>Non-compliance with disbursement terms and conditions by banks e.g. payments not made directly to suppliers.</p>	<p>Penalty to be levied on non-complying banks with a possibility of suspension from the facilities.</p>	<ul style="list-style-type: none"> • RBZ • Law Enforcement Agents • Legal System

Form of Corruption/Indiscipline	Action Required	Responsibility
Banks not passing on funds paid towards partial or full retirement of PSF loans by borrowers before maturity date, to RBZ.	Amount to attract penalty at the unsecured overnight interest rate.	<ul style="list-style-type: none"> • RBZ • Borrowers
Non/Under delivery of inputs by suppliers or service providers after receipt of payments e.g. payments made to chemical and fertilizer companies under the agricultural facilities.	<p>Prosecution of offending suppliers or service provider.</p> <p>Immediate recall of the amount equivalent to the value of inputs not supplied.</p> <p>The amount to attract interest at market rates.</p>	<ul style="list-style-type: none"> • RBZ • Law Enforcement Agents. • Administering Institutions.
Deliberate default by borrowers who perceive loans from government related institutions as donations by government.	<p>Recall the full outstanding amount.</p> <p>Suspension from benefiting from the facility in future. Name and Shame</p>	<ul style="list-style-type: none"> • RBZ • Media • Law Enforcement Agents

Form of Corruption/Indiscipline	Action Required	Responsibility
Political interference in the distribution of inputs and equipment, acquired under the agricultural facilities, thus, making it difficult for institutions managing the facilities to properly account for the disbursements.	Engage politicians to refrain from indulging in such activities as well as encourage borrowers to repay.	<ul style="list-style-type: none"> • Government • Farmer Unions • Banking Sector • RBZ
Non-existence of contracts between ultimate borrowers and managing institutions of agricultural facilities, thus making it difficult to enforce recovery.	All loans to be disbursed upon signing of proper loan agreements	<ul style="list-style-type: none"> • RBZ • Managing Institutions • Government
Non-existence of proper loan recovery procedures, expertise and capacity in managing institutions.	Documentation of Recovery Procedures. Capacitate public enterprises responsible for managing the facilities through provision of training, equipment, information systems and human resources.	<ul style="list-style-type: none"> • Government • RBZ • Managing Institutions

11. ANNEXURE 4: CURATORSHIP

11.1. This section aims at **de-mystifying curatorship** and what it means to stakeholders including the depositors, **management and staff of the financial institutions, stakeholders and other players in the financial sector, among others.**

Rationale Behind Placing an Institution Under Curatorship

11.2. The placement of financial institutions under the management of a curator is done in terms of Part 10 of the Banking Act [Chapter 24:20]. Section 53 (1) thereof provides the objective of placing a banking institution under curatorship is to “...*permit the institution’s financial condition to be remedied or resolved*”.

11.3. The motive and the action of placing an institution under curatorship is institution-specific, and is in keeping with the Reserve Bank’s statutory duty and function of supervising and monitoring banking institutions in order to ensure their compliance with the Banking Act and to **enhance and maintain the stability of the banking system.**

11.4. It is the responsibility of the Central Bank to take action where a bank is in an unhealthy condition because banks are key players in financial intermediation.

11.5. Banks help to promote economic prosperity through **enhanced mobilization of savings, asset transformation, allocative efficiency, screening and monitoring projects, risk transfer and sharing, enforcement of contracts, good corporate governance, and improved total factor productivity.**

11.6. Failure of a banking institution can have contagion effects which once triggered, would affect the entire economy.

Appointment of Curators

11.7. Curators are appointed by the Central Bank to take over the management of distressed institutions, investigate the deficiencies in an institution, take remedial action, and

recommend their resolution. This is provided for in the law of the land, and is in line with international best practice.

11.8. The Reserve Bank is entrusted with the responsibility of maintaining the stability of the banking sector, and this responsibility remains, even after an institution is placed under curatorship.

11.9. Curators are appointed from qualified and experienced professionals of high caliber and integrity, who are enjoined to exercise their duties in the best interests of the institutions they manage. Accordingly, their role is complementary to that of the Central Bank.

Reasons for Placing an Institution Under Curatorship

11.10. The most common grounds for curatorship can be divided into three groups.

- a) **First**, there are **grounds related to capital**. The bank may be capital insolvent or critically undercapitalized. In addition, the bank may fail to submit or implement a capital restoration plan within the time period prescribed;

- b) **Second**, there are grounds based on **violations of law**, unsafe or unsound practices that have had, or are likely to have, a substantial negative effect on the bank or weaken the institution's condition. Severe liquidity problems fall in this category; and

- c) **Third**, there are grounds based on a variety of **critical management failures of the bank, for instance** willful violation of a corrective order, or concealment or refusal to submit the bank's books, papers, records, or assets, or affairs for inspection to any examiner or lawful agent.

Effects of Curatorship

11.11. Placing a bank under the management of a curator has the following effects:

- a) Curatorship places the right to control or liquidate the bank in the hands of a curator appointed by the Reserve Bank. The powers of every director, officer and shareholder of the banking institution are withheld to enable the Curator to adequately manage the institution without interference from directors;
- b) All legal proceedings and the execution of all writs, summonses and other legal processes are stayed. Operation of any set-off in respect of any amount owing by a creditor to the banking institution is suspended. This ensures that the assets of the institution are safeguarded and all creditors are treated equally without unduly preferring some to others;
- c) The curator takes over and assumes management of the banking institution concerned in a manner he or she deems prudent to protect the institution and its creditors. **Any person who is aggrieved by the decisions of a Curator may appeal to the Reserve Bank, and if still not satisfied, may appeal to the Administrative Court;**

- d) Deposits and investments in a banking institution placed under curatorship may be frozen for a period not exceeding one year and no withdrawals can be made notwithstanding the provisions of any other law.
- e) The Reserve Bank may freeze the amounts deposited with or invested in an institution that has been placed under the management of a curator **in order to prevent a run on the institution's deposits**. Such a run would adversely affect the financial condition of the institution.
- f) In some cases, the depositors' funds may no longer be available as it may have been misappropriated by the directors and/or shareholders such that there are insufficient resources for depositors to withdraw from.

Curators' Fees

11.12. Curators are paid for their services by the Central Bank. The fees paid are based on the curator's professional tariff, and are not based on any percentage of the total value of assets recovered, as some quarters of society had come to believe.

11.13. The latter type of fee structure applies to liquidators of institutions under liquidation in terms of the Insolvency Act, which is a totally different process from curatorship.

11.14. Any legal fees incurred by the curator in the discharge of his duties in managing the distressed institution are generally paid by the Reserve Bank.

11.15. The shrinkage in value of creditors' and depositors' funds is a result of, among other things, the fact that the running of interest on deposits and investments and any amounts due to other creditors is suspended or reduced from the date the institution is placed under curatorship and is subject to inflation movements.

Responsibilities of the Curator

The curator is required to, among other things:

11.16. Manage the banking institution in a prudent manner that **promotes the interests of the institution, depositors and creditors;**

11.17. Examine the affairs of the institution to ascertain whether past or present director and employees have committed offences which render them personally liable to pay damages to the institution;

11.18. **Prepare reports to the Reserve Bank showing the assets and liabilities of the institution** and other financial information to enable the Reserve Bank to become fully acquainted with the institution's financial condition; and

11.19. Recommend the way forward to the Reserve Bank.

CONCLUSION

11.20. Ideally, when an institution's position is repairable, that institution can return to normal business after the curator has assessed and corrective measures put in place.

11.21. However, should the curator find the financial institution to be in a critical condition, then other options such as liquidation have to be adopted.

11.22. It is hoped that this brief explanation helps members of the public to gain an appreciation of the intricacies behind curatorship so that it ceases to be the 'black box' that it had become to many minds.

DR G GONO
GOVERNOR
RESERVE BANK OF ZIMBABWE
MAY 2005
