



# Project Diamond

## Final Report

The Monetary Board of Central Bank of Sri Lanka

Parliament Copy

KPMG

November 2019

This report contains 295 pages

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1	Glossary	4
2	Notice to the reader	5
2.1	Notice to the reader	5
2.2	Restrictions and Limitations	6
3	Background	7
3.1	Background of the engagement	7
3.2	Scope of work	7
3.3	Engagement administration and timelines	9
3.4	Engagement reporting and deliverables	11
4	Executive summary	12
4.1	Background	12
4.2	Overall operating environment at the EPF	12
4.3	Engagement timeline	13
4.4	Reporting requirements	14
4.5	Policy and process	14
4.6	Investments in listed companies	15
4.7	Listed investments of EPF highlighted in PCOI report	16
4.8	Key listed loss-making companies	18
4.9	Investments in unlisted companies	19
4.10	Safeguarding EPF's interest	21
4.11	Voting rights	22
4.12	Comments on observations in the Auditor General's reports	23
4.13	Statement of economic interest	23
4.14	Information limitations and hindrances	23
4.15	Recommendations	24
5	About EPF - Contextual framework for investigation	25
5.1	About the fund	25
5.2	Monetary Board of CBSL	25
5.3	Organisation structure	26
5.4	Investment Committee	27
5.5	Portfolio breakdown	28
5.6	Equity Investments	29
5.7	Employees Strength	30
5.8	Information requirement and availability	31
6	Review of policy and guidelines	33
6.1	Governance structure for investments	33
6.2	Review of policy framework and guidelines	33
6.3	Review of processes	38
6.4	Control environment	39
6.5	Key changes in IPS and its impact	42
6.6	Key changes to ITG and its impact	44



7	EPF's investments in <u>unlisted equity</u>	46
7.1	Investment summary	46
7.2	<b>Non-compliances with applicable policies and guidelines</b>	47
8	EPF's investments in <u>listed equity</u>	49
8.1	Investment summary	49
8.2	<b>Non-compliances with applicable policies and guidelines</b>	51
9	Listed equity investments – non-compliant and loss-making transactions	58
9.1	Summary	58
9.2	Analyses performed for EPF's investment in listed equity	59
9.3	Brown & Company PLC	61
9.4	Ceylon Grain Elevators PLC	70
9.5	Galadari Hotels Lanka PLC	83
9.6	<u>Laugfs Gas PLC</u>	93
9.7	<u>Piramal Glass Ceylon PLC</u>	105
9.8	<u>Colombo Dockyard PLC</u>	115
9.9	Bukit Darah PLC	126
9.10	Carson Cumberbatch PLC	137
9.11	Ceylon Hotel Corporation PLC	148
9.12	Ceylon Guardian Investments PLC	157
9.13	John Keells Holding Limited	166
9.14	Tal Lanka Hotels PLC	175
9.15	The Finance Company PLC	185
9.16	Hayleys Fabric PLC	190
9.17	Eden Hotels Lanka PLC	198
9.18	Raigam Wayamba Saltern Limited	206
9.19	PC House PLC	213
9.20	Mackwood Energy PLC	221
9.21	Dialog Telekom	226
10	Unlisted equity investments – non-compliant and loss-making transactions	233
10.1	Summary	233
10.2	Sri Lankan Catering Private Limited (SLC)	234
10.3	Canwill Holdings Private Limited (CHPL)	240
10.4	Sri Lankan Airlines (SLA)	251
10.5	<b>Policy compliance for other unlisted investments</b>	255
11	Investment or divestment decisions by MB or Governor	259
11.1	Investment decisions by MB or Governor in listed equity	259
11.2	Investment decisions by MB or Governor in unlisted equity	262
11.3	Investment decisions by MB or Governor in CBSL regulated entities	263
12	Voting rights	269

12.1	Background	269
12.2	Policy framework for exercising voting rights	269
12.3	Overall analysis of voting pattern	270
12.4	Persons or authority involved in the decisions to vote against	275
<b>13</b>	<b>Auditor General</b>	<b>277</b>
13.1	Background	277
13.2	Framework for resolution of AG's Observations	278
13.3	Observations pertaining to losses/no income on investments	279
13.4	Losses incurred on investment in Sri Lankan Airlines Limited	279
13.5	Low income derived from West Coast Power Limited	280
13.6	Losses incurred on investment in 'The Finance Company PLC'	281
13.7	Losses incurred on investment in PC House Limited	282
13.8	Losses incurred on investment in Laugfs' Gas PLC	283
13.9	Investment in Canwill Holdings Private Limited	284
13.10	Investment in Galadari Hotels Lanka PLC	284
13.11	Losses incurred on investments in Hotel Companies	285
13.12	Unspecified impairment losses	286
13.13	Unidentified company losses	286
13.14	Accounting issues highlighted by the Auditor General	287
13.15	Process gaps or operational issues in the Investment process	288
<b>14</b>	<b>Recommendations</b>	<b>290</b>





## 1 Glossary

Abbreviation	Expansion	Abbreviation	Expansion
AG	Auditor General	IPS	Investment Policy Statement
AGM	Annual General Meeting	IRMD	Investment Risk Management Division
ARD	Accounts and Reconciliation Division	IT	Information Technology
AsG	Assistant Governor	ITG	Investment and Trading Guidelines
ASL	Approved Share List	ID	Identity
ASPI	All Share Price Index	LKR	Sri Lankan Rupee
ATR	Action Taken Reports	LTL	Litro Gas Lanka
BO	Back Office	MB	Monetary Board of Central Bank of Sri Lanka
BOC	Bank of Ceylon	MBSL	Merchant Bank of Sri Lanka
CBSL	Central Bank of Sri Lanka	MLA	Monetary Law Act No. 58 Of 1949, as amended
CCD	Current Contributions Division	MO	Middle Office
Ceylinco	Ceylinco Leisure Properties Limited	N.A.	Not Applicable
CGE	Ceylon Grain Elevators PLC	NAV	Net Asset Value
CHPL	Canwill Holdings Private Limited	NBFC	Non-Banking Financial Company
CLD	Collection Division	NPV	Net Present Value
COPA	Committee of Public Accounts	PAMPL	Perpetual Asset Management Private Limited
CSAD	Corporate Services and Administration Division	PCOI	Presidential Commission of Inquiry
CSE	Colombo Stock Exchange	PDD	Public Debt Department
D/IT	Director in Information Technology	PLCL	Perpetual Capital Private Limited
DG	Deputy Governor	PRD	Public Relations, Inquiries, Help Desk and Call Centre
DS	Deputy Superintendent of EPF	RAD	Record Amendment Division
ECD	E-Collection Division	RCD	Refund Contributions Division
EGM	Extra-Ordinary General Meeting	RMD	Record Management Division
EL	Engagement Letter	RPD	Refund Payments Division
EPF	Employees' Provident Fund	RRD	Re-Registration Division
FAMC	Forensic Audit Monitoring Committee	S/EPF	Superintendent of EPF
FMD	Fund Management Division	SCD	Statement Contributions Division
FMU	Fund Management Unit	Sino Lanka	Sino Lanka Hotels and Spa Private Limited
FO	FO	SLA	Sri Lankan Airlines Limited
GALADARI	Galadari Hotels Lanka Plc	SLC	Sri Lankan Catering Private Limited
GOSL	Government of Sri Lanka	SLFRS	Sri Lanka Financial Reporting Standards
HLD	Housing Loans Division	SLIC	Sri Lankan Insurance Corporation
HRD	Human Resource Department	SLTDA	Sri Lanka Tourism Development Authority
IC	Investment Committee	SoW	Scope of work
IPO	Initial Public Offer	WAC	Weighted Average Cost



## 2 Notice to the reader

### 2.1 Notice to the reader

- 2.1.1 This report (hereinafter referred as 'final report') has been prepared solely for the purpose set out in KPMG Sri Lanka's Engagement Contract Letter (EL) dated 16 April 2019 with The Monetary Board of Central Bank of Sri Lanka (MB), and is not, without KPMG's prior written consent, to be used for any purpose other than as stipulated under the said EL. Accordingly, KPMG does not assume any responsibility and disclaims any liability, howsoever occasioned to you or any other party, as a result of the circulation, publication or reproduction of this report, contrary to the provisions of this paragraph.
- 2.1.2 MB had contracted KPMG Sri Lanka which in turn has engaged KPMG India to lead this engagement. As required by the MB, KPMG Sri Lanka was not involved in the engagement delivery and its role was limited to contracting set up.
- 2.1.3 KPMG reserves the right to amend any findings, if deemed necessary by KPMG, should any further information become available to KPMG post submission of this final report. Neither KPMG, nor any of its partners, directors or employees, undertake responsibility in any way whatsoever to any person in respect of errors in this report, arising from incorrect information or explanations provided by CBSL, Employees' Provident Fund (EPF), Colombo Stock Exchange (CSE) or any other party (hereinafter defined as information 'sources').
- 2.1.4 KPMG's findings are based on the procedures performed during the engagement and agreed in the EL. Had additional procedures been required in the scope of work in the RFP/EL, the findings may have been different.
- 2.1.5 KPMG's views are not binding on any person, entity, authority or Court, and hence, no assurance is given that a position contrary to the opinions expressed herein will not be asserted by any person, entity, authority and/or sustained by an appellate authority or a court of law.
- 2.1.6 In connection with the final report or any part thereof, KPMG does not owe the duty of care (whether in contract or in tort or under statute or otherwise) to any person or party or entity to whom the report is circulated, other than the addressee of the report, and KPMG shall not be liable to any such person or party or entity who uses or relies on this final report. KPMG thus disclaims all responsibility or liability for any costs, damages, losses, liabilities, expenses incurred by such third party arising out of or in connection with the final report or any part thereof.
- 2.1.7 Given the non-availability of data, information and records, the results of KPMG's work regarding review of transactions could not be completed in a few areas and such details are set out in Section 2.2. KPMG's final report and comments should not be considered as a definitive pronouncement on any individuals or companies.
- 2.1.8 While performing the work, KPMG assumed the genuineness of all signatures and the authenticity of all the documents received by KPMG from information sources. KPMG has not independently verified the correctness or authenticity of the same unless specifically stated.
- 2.1.9 KPMG's final report may make references to KPMG's analysis; this indicates only that KPMG has (where specified) undertaken certain analytical activities on the underlying



data to arrive at the information presented; KPMG does not accept responsibility or liability for accuracy or the completeness of the underlying data provided by information sources.

- 2.1.10 KPMG has set out the sources of information obtained from the public domain<sup>1</sup> or external sources. KPMG has obtained information, as far as possible from sources generally considered reliable and assumes no responsibility for such information.
- 2.1.11 All amounts mentioned in the report are in Sri Lankan Rupees (LKR) in million unless otherwise specified. Amounts mentioned in the report and annexures have been rounded off, unless mentioned otherwise.
- 2.1.12 The scope of work performed by KPMG under this engagement was as required in the EL at that time. This report is based on information and evidence obtained as a result of work completed until 20 October 2019.
- 2.1.13 By reading this report, the reader of this report shall be deemed to have accepted the terms specified hereinabove.

## 2.2 Restrictions and Limitations

- 2.2.1 We bring attention of the reader to the key restrictions and limitations to our work. Refer Annexure 1 and Annexure 2 and paragraph 5.8.

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<sup>1</sup> This information maybe hearsay in nature.



### 3 Background

#### 3.1 Background of the engagement

3.1.1 A Presidential Commission of Inquiry (PCOI) was appointed to investigate and inquire into and report on the issuance of treasury bonds during the period 01st February 2015 to 31st March 2016. Some of the transactions were identified and highlighted by PCOI which indicated inappropriate practices leading to loss to the country and damage to CBSL's reputation.

3.1.2 The PCOI in its report highlighted the following in Chapter 16 (Refer Exhibit 1) as follows:

*"It is in public domain that during the period prior to 2015 (prior to the PCOI mandate), especially during 2010 and 2011 the EPF, which comes under the direct control of the Monetary Board of the CBSL, is said to have been involved in questionable trading activities on the Colombo Stock Exchange.*

*There were allegations made in the public domain that the EPF engaged in large scale Transactions in Shares in Companies such as Piramal Glass Ceylon PLC, Galadari Hotels (Lanka) PLC, Laugfs Gas PLC, Ceylon Grain Elevators PLC, Brown and Company PLC during this period and that some of these Transactions raised the inference of "Pumping and Dumping" and "market manipulation". These were allegations that the EPF knowingly acquired shares which resulted in the EPF incurring substantial losses"*

3.1.3 In view of the above, as per recommendations of the PCOI in Chapter 33 (Refer Exhibit 2) of the PCOI report, the necessity to examine the transactions entered by the EPF on the Colombo Stock Exchange was highlighted. Thus, CBSL appointed KPMG, as per EL dated 16 April 2019, "to investigate investments of Employee Provident Fund in equities/shares from 1998 to December 2017 and shall cover following areas relating to every investment or divestment in listed and unlisted shares (including preference shares) with a value exceeding Rs 10 million on a single day"<sup>2</sup>.

#### 3.2 Scope of work

3.2.1 Paragraph 2 of Document A- Terms of Reference (TOR) in the EL provides the scope of work for the engagement. The scope of work has been reproduced below:

**Table 1: Scope of work and the related section reference**

Scope reference	Scope of work <sup>3</sup>	Final Report Section reference
2.2.1	Study all applicable investment and trading guidelines and investment policies with respect to equity investments by EPF during the period under review	Section 6
2.2.2	Examine the processes in which investment decisions were made during the period under review highlighting any changes made to the investment decision making process and identify under whose authority such changes have been made	Section 6

<sup>2</sup> As per the CBSL appointed KPMG Sri Lanka which in turn appointed KPMG India. CBSL, due to confidentiality reasons, did not want any Sri Lankan national to be working on this engagement hence the role of KPMG Sri Lanka was limited to facilitating the contracting set up.

<sup>3</sup> Scope of work as per Paragraph 2.2 of Document A in the EL dated 16 April 2019



Scope reference	Scope of work <sup>3</sup>	Final Report Section reference
2.2.3	Identify any instances of non-compliances with applicable guidelines and policies and identify the officers responsible for such non-compliances	Section 7, 8, 9, 10 and 12
2.2.4	<p>With respect to equity investments which have incurred losses to EPF during the period under review, examine the following:</p> <ol style="list-style-type: none"> <li>1. The decision-making process relating to each investment and divestment (where applicable) thereof, identify any instances of non-compliance with applicable investment guidelines and policies, identify officers /authorities responsible for any noncompliance</li> <li>2. Examine if any feasibility study or proper market analysis was conducted along with market research etc. and rationale given for investments in such equities and whether the information in such reports were reasonably complete and accurate</li> <li>3. Identify persons/entities from whom and at what price such shares have been purchased by EPF. Compare such purchase prices with the market prices (or valuation) at the time of purchase and examine if EPF has made prudent investment decisions based on the information available at that time</li> <li>4. Identify persons/entities to whom and at what price such shares have been sold by EPF. Compare such sale prices with the market prices (or valuation) at the time of sale and examine if EPF has made prudent decisions based on the information available at that time</li> <li>5. Quantify the loss for each equity investment</li> <li>6. Identify the person or persons responsible for the investment or divestment decisions and examine whether or not such person or persons have acted within their delegated authority and identify instances where due process has not been followed in making such decisions.</li> </ol>	Section 7, 8, 9 and 10
2.2.5	Where the investment or divestment decisions have been made by the Monetary Board or the Governor and whether the information required for decisions had been submitted and if so the persons involved in making the relevant recommendations	Section 11
2.2.6	Tabulate the Monetary Board decisions with respect to investments in shares of unlisted and CBSL regulated entities and identify significant changes effected to investment policies from time to time and the rationale for the change	Section 6 and 11
2.2.7	Identify instances where voting rights in shares have been exercised (or proxies filed) opposing the recommendations of the boards of directors of investee companies and the basis and authority for such decisions.	Section 12
2.2.8	Examine reports of the Auditor General (AG) on the audits carried out with respect to the EPF for the financial years from 1998 to December 2017 (or latest available period) and examine the queries raised by AG. Examine if adequate action has been taken by EPF to address the concerns raised by AG. If these are not covered under 2.2.1 to 2.2.4, identify the persons responsible for the queries raised by AG	Section 13
2.2.9	Examine whether there appears to be any collusion between officers of EPF and any other external parties which has enabled certain external parties to earn extraordinary gains or has resulted in EPF incurring losses from its investing activities	All sections

Source: Terms of reference in the Contract dated 16 April 2019

3.2.2 The period of investigation as per the terms of reference was 1 January 1998 to 31 December 2017, hereafter referred to as 'Review Period'.

### 3.3 Engagement administration and timelines

3.3.1 To oversee the functioning of the investigation and assist in ensuring smooth conduct of the investigation, the Monetary Board (MB) appointed the Forensic Audit Monitoring Committee (FAMC) which composed the honourable Chairman, Members and Observer:

**Table 2: FAMC composition**

Name	Role
Mr. A. N. Fonseca	Chairman, Monitoring committee
Mr. C. P. R. Perera	Member of the Monitoring committee
Ms. Anusha Mohotti	Member of the Monitoring committee
Ms. L. S. I. Jayaratna	Observer in the Monitoring committee

*Source: Minutes of the meeting with the FAMC*

3.3.2 The Investigation progress was updated to the FAMC regularly from May 2019 to September 2019. The data availability was a limitation in various areas of work. FAMC was regularly apprised about the evolving thematic observations, circumstances impacting the investigation, and appropriate guidance was sought from them. Following key discussions transpired during these meetings:

**Table 3: FAMC meetings**

Sr No	Date	Meeting No	Objective of the meeting/ key discussions
1	7 May 2019	Kick off meeting	- Kick off presentation – engagement plan and proposed timelines
2	21 May 2019	Update 1	- Update on the preliminary work done and approach for review of voting rights and Auditor General's observations
3	12 June 2019	Update 2	- Update on the work done for Unlisted equities and Policy reviews
4	2 July 2019	Update 3	- Update on the work initiated on the Listed equities - Issues noted in the IT infrastructure at EPF - Agreeing on the cutoff dates for receiving data on the Policy, unlisted and voting work streams
5	17 July 2019	Update 4	- Observations for Unlisted equities - Legal issue in sharing counterparty data was updated to FAMC by Board Secretariat team - Considering the delays in obtaining data from EPF, interim report date was extended
6	31 July 2019	Update 5	- Challenges faced in obtaining CSE counterparty data was discussed - Impact of not having counterparty data was explained to FAMC
7	22 August 2019	Update 6	- Cut off for all the data to be received was discussed - Time and cost impact due to the delays in information availability was discussed



Sr No	Date	Meeting No	Objective of the meeting/ key discussions
8	24 September 2019	Update 7	- FAMC was briefed about the interim report structure and findings - Overall engagement timelines were discussed
9	6 November 2019	Update 8	- FAMC was presented the key observations in the draft report

*Source: Minutes of the meetings with FAMC*

3.3.3 On 2 July 2019, following three additional members, who assisted the PCOI in its investigation, were added to the FAMC to assist the FAMC.

**Table 4: FAMC Additional members**

Name	Role
Ms. Sureka Ketawala	Additional Member assisting FAMC
Mr. D L Nihal	Additional Member assisting FAMC
Mr. P W Wickumsiri	Additional Member assisting FAMC

*Source: Minutes of the meetings with the FAMC*

3.3.4 Ms. K. M. A. N. Daulagala, (Assistant Governor, Board Secretariat) was appointed as the official point of contact for the investigation and was supported by Ms. Chandima Perera and Mr. A. A. Pradeep<sup>4</sup>. The Board Secretariat acted as CBSL's point of contact for facilitating this investigation. We place on record our appreciation for the support provided by FAMC and the Board Secretariat during this engagement.

3.3.5 According to the EL, broad timelines for the work were as under:

- 7 May 2019 – Engagement initiation at CBSL
- 7 September 2019 – Interim report (4 months of fieldwork)
- 7 October 2019 – Draft report (5 months of fieldwork)
- 7 November 2019 – Final report (6 months of fieldwork)

3.3.6 A summary of the key factors that held up the work and have impacted the overall engagement timelines are set out in Annexure 3. The most important factor which led to field work extension by 2 months was the non-availability of trading data for listed transactions on a timely basis with certain relevant data field (e.g., counterparty details). It was understood that the delay was primarily due to resolution of the legal aspects involved in sharing of the data by the Colombo Stock Exchange (CSE).

3.3.7 Dr. Indrajit Coomaraswamy (Governor, CBSL) was also apprised of the engagement progress on 15 May 2019, 12 June 2019, 31 July 2019 and 22 August 2019. In the meeting dated 22 August 2019, Dr. Indrajit Coomaraswamy and FAMC were apprised that the field work will be completed, and the interim report would be submitted on 30 September 2019 without counterparty analysis for listed transactions and it would be a significant limitation to the work. After this meeting, counterparty information was received from CSE on 23 August 2019, and has been considered for further analysis.

3.3.8 The Interim report was submitted on 1 October 2019. The findings of the Interim report were presented to the members of the Monetary Board on 10 October 2019. Comments

<sup>4</sup> Mr. A.A. Pradeep was appointed in the absence of Ms Chandima Perera for a temporary period during her leave.

were sought from CBSL on the interim report and received on 14 Oct 2019. The engagement team discussed the comments with CBSL.

- 3.3.9 Post submission of the interim report, various procedures, such as interviews, analysis of listed investments, additional fieldwork, etc., were performed as necessary, and their findings have been included in this report.

Refer Annexure 4 for details of availability of EPF employees for interviews and Exhibit 3.1 to 3.28 for minutes of the interview conducted with the EPF employees.

### 3.4 Engagement reporting and deliverables

- 3.4.1 The EL (Document A, Paragraph 3: Deliverables) defined the minimum requirements that were to be addressed in the report. Based on the requirements, an outcome matrix has been provided in Annexure 5.

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## 4 Executive summary

*The executive summary is not intended to be all-inclusive.*

### 4.1 Background

4.1.1 The Employees' Provident Fund (EPF) is the largest superannuation fund in Sri Lanka with 18.60 million member accounts and approx. 86,200 employers as of 31 December 2018. It receives a monthly contribution of approx. Sri Lankan Rupees (LKR) 12 billion and its assets under management are LKR 2.29 trillion as on 31 December 2018. It deploys the contribution mainly in treasury bonds (~92%) and equity investments (~3.30%).

4.1.2 The Monetary Board of Central Bank of Sri Lanka (MB), the custodian of the monies of the EPF had appointed an Investment Committee to look after day-to-day activities of EPF's investment function. The investment operations are guided by the Investment Policy Statement (IPS) and the Investment and Trading Guidelines (ITG). IPS was introduced in 2001 and ITG in 2007. IPS and the ITG were revised in 2011 with the approval of the MB.

4.1.3 The EPF is headed by its Superintendent, who is responsible for overseeing its operations. The investment activity was exclusively managed by the Fund Management Division (FMD) which consists of the FO, Middle office and the Back office. Investment Risk Management Division (IRMD) was introduced in 2014 to look after the compliance of transactions executed by the FMD.

4.1.1 In April 2019, MB appointed KPMG<sup>5</sup> to investigate EPF's transactions during the period 1998-2017 ('the Investigation'). The Scope of Work (SoW) included review of the investment/divestment in equities with specific focus on **transactions above LKR 10 million**, analysis of the voting by EPF against its investee company proposed resolutions in AGM/EGM, review of action taken by EPF on Auditor General's (AG) annual reports and identify collusion (if any) between individuals (refer Paragraph 3.2 for detailed SoW).

### 4.2 Overall operating environment at the EPF

4.2.1 During this investigation, the prevailing operating environment in EPF, its control procedures and other prevailing practices were enquired into. To investigate an allegation, documentary evidence (which includes digital evidence that could establish communication pattern, or any inappropriate practices such as existence of collusion within the department or with outsiders, etc.) is required. Further, obtaining information from personnel alleged to have been involved in such transactions is also required.

4.2.2 Certain documents containing critical information required to verify transactions and validate their rationale for decision making were unavailable. Some key examples<sup>6</sup> are:

- Supporting information for investment in unlisted shares prior to 2007.
- Transaction data from SAP for the period prior to September 2006.
- Investment committee's minutes for four years<sup>7</sup>; which impacted review of 85 transactions out of a total of 4886 transaction above LKR 10 million.

<sup>5</sup> MB appointed KPMG Sri Lanka vide contract dated 16 April 2019 which in turn appointed KPMG India to lead the engagement

<sup>6</sup> Refer restrictions and limitations for complete details

<sup>7</sup> IC minutes were unavailable for 1998, 1999, 2000 and 2003



- Deal tickets and settlement sheets for the period prior to 2008 and a few for the balance period under investigation; thereby impacting dealer identification at EPF initiating such transactions.
- Complete list of voting rights exercised by EPF. AG's report for 1998 and 1999 and action taken report for the period under review.
- Absence of policy for empanelment and performance evaluation of brokers.

4.2.3 Some key IT and other non-financial controls were missing which impacted the availability of information relevant to this investigation. The key examples of these controls and information included:

- Non-availability of emails for EPF employees for the period prior to 2012, and absence of litigation hold<sup>8</sup> prior to June 2017.
- Computers used in the EPF department were not mapped to specific employees. Hence, identification of computers for imaging (for specific employee) was not possible and all the existing computers of FMD had to be imaged; old computers were unavailable for review.
- Voice recorder control was not implemented in EPF's dealing room, and it was observed that many transactions were basis verbal instructions.
- Computer of the former Governor, Mr. Ajith Nivard Cabraal, was not available.
- Two known iPads used by former Governor Mr. Arjuna Mahendran were obtained for forensic imaging. However, the user profile credentials for the iPad were not available with the IT department. Hence, forensic imaging (for extraction and review of data) for the same was not possible.

4.2.4 Through CBSL, a questionnaire related to the key deviations identified during the fieldwork was shared on 3 October 2019 with Former Governor Mr. Cabraal, and for a few specific points with former Governor Mr. Arjuna Mahendran. The responses to the questionnaires have not been received up to 5 November 2019. An in-person meeting with Former Governor Mr. Cabraal was also requested but could not be conducted due to his claimed non-availability.

### 4.3 Engagement timeline

4.3.1 KPMG started the fieldwork in May 2019 with a planned completion of August 2019 for submission of Interim report. Various factors<sup>9</sup>, mainly information delays pertaining to data related to listed transactions, impacted the project timelines. An interim report was

<sup>8</sup> Litigation hold on server emails creates a backup on the server for emails deleted by the user from his computer

<sup>9</sup> Paragraph 5.8 and Annexure 3



submitted on 1 October 2019 (for the fieldwork completed till 24 September 2019). Draft report was issued on 28 October 2019.

- 4.3.2 Since the counterparty data for listed transactions was provided on 23 August 2019, the fieldwork was extended, and the final report contains outcome of additional work done till 5 November 2019.

#### 4.4 Reporting requirements

- 4.4.1 In accordance with the EL, the minimum requirements to be reported (refer Paragraph 3.4.1) are summarized below:

- Results of the investigation for the identified areas of work (including non-compliances)
- Malpractice/irregularity/non-compliances resulting in financial loss caused to EPF
- Contractual obligations carried out fraudulently/recklessly/negligently or irresponsibly resulting in financial loss to EPF
- Non-compliances/disregard of procedures led to improper/irregular or discriminatory award of contracts
- Were procedures adopted to result in obtaining optimum price or benefit for the EPF
- Person(s) responsible for the acts which have resulted in financial loss caused to the EPF
- Obstruction or prevention of inquiry or probe resulting in financial loss caused to the EPF (if yes, persons responsible)

Based on the work performed, the key findings from the investigation have been summarized below.

#### Summary of key findings

#### 4.5 Policy and process

- 4.5.1 Investigation revealed that various activities in EPF, including investment in trading or investment portfolio were performed without express approvals or mandate in the IPS/ITG. Key deviations that were noted are:

- Portfolio level breaches and breach of individual security limit and trading limit,
- Investment transactions without IC/MB approval
- Deviation from IC plan for execution of transactions
- Irregularities in addition of companies to the ASL
- Investments made without adequate analysis
- Unsigned deal tickets and settlement sheets
- Investment in unlisted equity without express provisions in IPS/ITG and approval of Monetary Board (e.g. investment of LKR 500 million in Sri Lankan Airlines<sup>10</sup> in 2010, investment of LKR 1000 million for Sri Lankan Catering).
- Investment of LKR 1539.44 million<sup>11</sup> in five banking shares based on instructions/approval from the Governor during 2009 and 2010.

<sup>10</sup> Refer Paragraph 10.4

<sup>11</sup> Refer Paragraph 11.3.3 for details

- Statement of economic interest submission by EPF employees was withdrawn<sup>12</sup> and potential dealing on personal account by four employees of FMD/EPF was noted.
- Voting records were not maintained by EPF for AGM/EGMs.

4.5.2 Investment in unlisted shares of banks was allowed in 2001 and listed banking and financial stocks was allowed under IPS 2011. During investigation it was identified that in various MB meetings<sup>13</sup>, it was highlighted that EPF should not invest in shares of banking and financial institutions as CBSL is the regulator for the sector. However, investment of LKR 1539.44 million, prior to 2011, in five listed banks was in violation of the prevalent IPS/ITG.

4.5.3 Basis documentary evidence, it appears that the investment in five listed banks was based on instructions of former Governor Mr. Ajith Nivard Cabraal. These investments were subsequently ratified by IC and MB (Governor is the Chairman of the MB). Though the investment was in violation of the prevailing IPS and ITG, no discussions were noted in the minutes that provided the rationale for the investments without prior approvals of IC and MB. Further, no approvals were available on record for initial investment of LKR 463 million<sup>14</sup> in three non-banking financial institutions.

#### 4.6 Investments in listed companies

4.6.1 Analysis of the investments in listed companies during the Review Period was conducted and all transactions (investment or divestment) above LKR 10 million on a day were reviewed for adherence to relevant IPS/ITG. Additionally, analysis of investment in 19 companies was conducted which were loss making (i.e. realized loss on sale or investment or impairment loss was recorded in the EPF's books of accounts) or were named in the PCOI report.

4.6.2 The overview of the transactions executed by EPF during the Review Period and bifurcated by transaction threshold and investment outcomes is given below.

**Table 5: Summary of investment in listed companies**

EPF investments	Count of companies	Count of total transactions <sup>15</sup>	Value (LKR million)	Transactions above 10 million	Value (LKR million)	Non-compliant transactions
Loss making transactions (including three <sup>16</sup> scrips named in PCOI report)	17	4,365	57,965.22	1,561	52,948.65	193
Two <sup>17</sup> non-loss making scrips in PCOI report	2	287	5,101.95	144	4,745.59	12

<sup>12</sup> Refer Paragraph 8.2.14

<sup>13</sup> Meetings dated 3 March 1998, 7 April 1998 and 7 April 2009

<sup>14</sup> Refer Paragraph 11.3.2

<sup>15</sup> Transactions include purchase as well as sale transactions

<sup>16</sup> Ceylon Grain Elevators PLC, Galadari Hotels (Lanka) PLC and Brown and Company PLC

<sup>17</sup> Laugfs Gas PLC and Piramal Glass Ceylon PLC





EPF investments	Count of companies	Count of total transactions <sup>15</sup>	Value (LKR million)	Transactions above 10 million	Value (LKR million)	Non-compliant transactions
Transactions in CBSL regulated entities	9	1,460	29,023.71	660	27,321.98	208
Other investments	56	10,968	58,673.89	2,520	46,163.08	386
<b>Total</b>	<b>84</b>	<b>17,080<sup>4</sup></b>	<b>150,764.77</b>	<b>4,886</b>	<b>131,179.30</b>	<b>799</b>

*Source: CSE data and the SAP data provided by the client and KPMG's workings*

4.6.3 Details of non-compliant transactions related to other investments in 56 companies have been provided in Annexure 6.

#### 4.7 Listed investments of EPF highlighted in PCOI report

##### ***Brown & Company PLC (Impairment loss of LKR 1304.24 million)***

4.7.1 EPF incurred a total impairment loss of LKR 1304.24 million in Brown. This impairment loss was booked by EPF on 31 December 2015 (LKR 1100.27 million for 6.66 million shares) and additionally on 31 December 2017 (LKR 203.97 million for the same quantity i.e. 6.66 million shares). Both of these impairment losses included losses on the 2.5 million shares purchased by EPF on 27 July 2011 amounting to LKR 737.59 million. EPF received a dividend of LKR 31.45 million during the Review Period.

4.7.2 A single investment of LKR 737.59 million on 27 July 2011 was at a price of LKR 290 per share. The counterparty to this transaction was Mr. S.H.M. Rishan, who, as per public domain information, was a promoter of PC House PLC, another company listed on CSE (delisted by CSE due to certain non-compliances).

4.7.3 During review of documents related to Brown, it was observed that the transaction was not pre-approved by IC, no analysis of MO was available to determine the pricing for the purchase transaction and the deal ticket for the transaction was unsigned hence dealer the dealer executing the trade could not be identified. It was a crossing<sup>18</sup> transaction and was subsequently ratified.

##### ***Ceylon Grain Elevators PLC (Impairment loss of LKR 651.91 million)***

4.7.4 A large proportion (91.80%) out of the total investment of LKR 1051 million amounting to LKR 965 million in shares of CGE was made through 'Crossing' transactions on two dates, i.e., 4 March 2011 and 15 March 2011. Both the transactions were not in the IC's weekly plan and were subsequently ratified. The major counterparty to these transactions (approx. 95% of the purchase) was Perpetual Capital Private Limited (PCPL). The transaction was executed by Mr. M.S.M. Husam (Dealer) and he stated "he did not remember the events and the superintendent at that time could have asked him to

<sup>4</sup> 88 transactions were accounting entries in SAP for impairment, opening balance as on 31 August 2006, name change entries and transfer from one ledger to another, hence excluded from the above count to avoid double counting.

<sup>18</sup> Negotiated trades executed on the stock exchange

*execute the transactions*". EPF incurred an impairment loss of LKR 651.91 million on the investment in CGE and earned a dividend of LKR 25.02 million during the Review Period.

- 4.7.5 PCPL was counterparty for 4.75 million shares. Out of 4.75 million shares, PCPL would have earned a potential profit in the range of LKR 236.05 million to LKR 302.56 million for 1.99 million shares<sup>19</sup>. Additionally, PCPL was counterparty for 2.76 million shares and its acquisition cost is unknown hence the profit/loss impact cannot be computed.
- 4.7.6 The Superintendent at the time of the investment informed that *"the Governor explained and convinced that this is a viable project considering prospects and poultry sector was flourishing"*. A former Additional Superintendent during the time informed that *"this investment was a management decision"*<sup>20</sup> whereas a former Deputy Governor at that time said that he *"would never (approve) the investment in Ceylon Grain Elevators, due to its prevalent high price"*.

***Galadari Hotels Lanka PLC (Impairment loss of LKR 620.62 million)***

- 4.7.7 Investment of LKR 801.11 million in the stock of Galadari was done 12 May 2010 and 31 May 2010. These shares were purchased through crossing transaction at a price of LKR 34.00 per share, which was the highest price prevalent in the market on these respective days. Deal ticket and settlement sheet for these trades is not available hence the name of the dealer executing the transactions cannot be determined.
- 4.7.8 The investment rationale was not available in the documents available and no evidence of financial analysis was available. Galadari was a loss-making company at the time of investment.
- 4.7.9 From review of documents, it was observed that both transactions were executed on instructions of the MB, without prior approval of IC and the transaction was ratified by IC on 14 May 2010 and 2 Jun 2010. These were ratified by MB on 15 June 2010. Further, these transactions were not part of the IC weekly plan and potentially resulted in losses to EPF and a potential gain to 'New Nawaloka Hospitals Private Limited'.
- 4.7.10 The counterparty to both the trades was observed to be 'New Nawaloka Hospitals Private Limited.' A news article<sup>21</sup> was observed, which reported that *"According to Nawaloka Hospitals Deputy Chairman and Chief Executive Officer Jayantha Dharamdasa it has been a great relief for them to get rid of the burden"*<sup>22</sup>.

***Laugfs Gas PLC (non-loss making and named in PCOI report)***

- 4.7.11 EPF invested LKR 2789.51 million in the shares of LGL during the Review Period. Of the total investment in LGL, a major portion amounting to LKR 1584.00 was transacted on CSE (33 million shares) on 10 October 2011 at a price of LKR 48 per share. EPF earned a dividend of LKR 662.72 million in LGL during the Review Period.
- 4.7.12 The shares were purchased at a price of LKR 48, which was higher than the average prices on the transaction date as well as average prices 30 days prior and subsequent to the transaction date. There was a wide variation (16%) in the price of LGL on the trading

<sup>19</sup> Refer paragraph 9.4.17 for detailed calculations

<sup>20</sup> In an interview, one of the employees informed KPMG that *"top management"* *"would mean the Governor and the Deputy Governor"*. Refer paragraph 9.4.22

<sup>21</sup> Refer paragraph 9.5.16

<sup>22</sup> Refer paragraph 9.5.17. This information could not be independently verified



day immediately preceding date of purchase by EPF. Subsequent to the purchase on 10 October 2011, the price of LGL witnessed a fall to LKR 34.00 levels by 25 November 2011.

- 4.7.13 From IC minutes, it was observed that LGL was recommended at a price of LKR 40 – LKR 45. MO had calculated the price range for the share, and we noted certain details were not matching up with the available balance sheet used for price calculation<sup>23</sup>. Purchase price per share of upto LKR 48 for 33 million shares was approved in IC meeting dated 5 October 2011. However, on such purchase the share holding limit would have breached. No approval for such breach was taken in the IC and it was subsequently ratified in IC meeting dated 18 April 2012. We noted that majority of the IC members were same in both the meetings.
- 4.7.14 The trade was executed through crossing transaction on CSE and the counterparty was the holding company of LGL i.e. Laugfs Holdings Limited. Information published in media<sup>24</sup> indicated that post the purchase by EPF, share prices started to drop and Laugfs Holdings Limited started to repurchase the shares of LGL.
- 4.7.15 Current and former employees were interviewed and explained that a letter was sent to EPF by the holding company of LGL and a presentation was also made by it to EPF. An employee indicated that *“the company called back and offered shares at a price of 48. This was consulted with the governor and he agreed that it was a fair price”*. Further another employee stated that *“it might have been the case that the Governor would have instructed the S/EPF to purchase at that price”*.

***Piramal Glass PLC (non-loss making and named in PCOI report)***

- 4.7.16 An amount of LKR 791.39 million was invested by EPF in Piramal Glass. A dividend of LKR 186.71 million was earned by EPF in Piramal Glass during the Review Period. There were eight transactions, which were non-compliant with IPS/ITG. No justification in relation to the price at which, shares were purchased/sold, was available in the documents. No evidences in relation to analysis of the company were available.

**4.8 Key listed loss-making companies**

***Colombo Dockyard (Impairment loss of LKR 1868.73 million)***

- 4.8.1 Majority of the investment of LKR 2220.81 million in Colombo Dockyard was on two days i.e. 30 June 2010 and 24 November 2010. Both these were crossing transactions. The largest counterparty to the trade on 30 June 2010 was ‘Horizon Representation of Companies LLC’. Prior approval of IC was not obtained before executing the transaction on 30 June 2010 for 6.89 million shares.
- 4.8.2 The IC ratified the investment and the rationale was *“as per instructions of the management, EPF purchased 6.89 million shares of dockyard at Rs. 280.00 per share on 30 June 2010”*. No documentation was available to assess how the price was determined for this purchase.
- 4.8.3 For certain transactions, transaction execution documents such as order placement sheets, trading approval forms, deal tickets and settlement sheets were not available for

<sup>23</sup> Refer paragraph 9.6.11.

<sup>24</sup> This information could not be independently verified.

review, hence, the persons executing and approving the transactions could not be identified.

- 4.8.4 Price movement analysis indicates that the scrip price in June 2010 was around LKR 280 and went up to LKR 298 on 8 Oct 2010. Thereafter the price came down and another purchase was done on 24 November 2010 at LKR 292. In the subsequent months (upto June 2011) the price was range bound between LKR 245 to LKR 295. An employee stated *"in line with the port hub concept the investment was made. Number of projections on the port's usage were calculated and according to his views, the investment was projected to be profitable"*.

***Bukit Darah PLC (Impairment loss of LKR 1707.18 million)***

- 4.8.5 EPF invested LKR 2293.81 million in Bukit during the period January 2011 to May 2015.
- 4.8.6 The price movement in Bukit showed a downward trend from September 2015 leading to impairment losses being recorded. It was observed that MO analysis to determine the price range was not available in the documents provided for review.
- 4.8.7 The initial purchase in Bukit was without the approval of IC, and no evidence of analysis conducted on this company was observed in the available documents. One of the dealers during the time of investment in Bukit informed that *"Bukit Darah was not recommended<sup>25</sup> by the MO for investment"*. Another statement was provided that *"it was a company having good prospects and their performance mainly depends on their investments in Palm oil plantations in Malaysia, but prone to fluctuations arising from volatility in the commodity prices"*.

***Carson Cumberbatch PLC (Impairment loss of LKR 1625.64 million)***

- 4.8.8 EPF invested LKR 2581.36 million in Carson, first transaction being executed in October 2010. On examination of counterparties to EPF transactions, it was observed that an entity by the name Thurston Investments Limited was the major counterparty one of the trades of EPF and comprised approximately 40% of total counterparty by value. It was a crossing transaction.
- 4.8.9 From information published in media articles, it was observed that an entity named Thurston Investments Limited is owned by Mr. Kattar Aloysius (Grandfather of Arjun Aloysius). In the absence of KYC details of counterparty, we are unable to confirm if counterparty is same as the entity owned by Mr. Kattar Aloysius.

**4.9 Investments in unlisted companies**

- 4.9.1 EPF invested LKR 11,042.63 million<sup>26</sup> in 17 unlisted companies during the Review Period. Financial highlights of the investments upto 31 December 2017 are:

- Nine investments aggregating to LKR 277 million, gave dividend income of LKR 66.59 million and capital gain of LKR 111.20 million on disposal.
- Eight<sup>27</sup> investments aggregated to LKR 10,765.63 million and were held by CBSL as on 31 December 2017. The breakup is:

<sup>25</sup> No document was available that corroborated that it was not recommended

<sup>26</sup> Refer Paragraph 7.1.1 for the detailed list of transactions

<sup>27</sup> One of the investments in Fitch Ratings Lanka Limited was below the threshold of LKR 10 million



- Impairment losses of LKR 500 million were recorded on investment in SLA and it is currently held at nominal book value of LKR 100.
- No returns accrued on total investment of LKR 1,290 million in three companies.
- Three investments aggregating to LKR 8,975 million, gave dividend income of LKR 6,394 million.

4.9.2 During the analysis of the information provided by EPF, multiple IPS/ITG violations were observed. Key issues are as follows:

- Investment of LKR 4,475 million<sup>28</sup> by EPF in unlisted companies prior to 2011 despite absence of any policy guidelines (Unlisted companies other than Banking companies). Two of the said investments were approved by the MB whereas investment in SLA was ratified by the MB. Out of these, investment of LKR 500 million in SLA has been impaired.
- In case of four unlisted instruments in banks (Commercial Bank Uva Development Bank, Wayamba Development Bank and Rajarata Development Bank), the investment was done prior to MB approval (in 1998-99) and was subsequently ratified. No rationale for the investments was provided by EPF.
- For Commercial Bank's 11.25 per cent Preference Shares, investment was based on Governor's instructions.
- Policy violations were observed in case of three unlisted companies (SLA, SLC and CHPL) where EPF had invested an amount of LKR 6,500 million. Entity wise issues noted are set out below.

#### ***Investment in Sri Lankan Airlines Limited (SLA)***

4.9.3 On 2 July 2010, the IC had approved investment of LKR 500 million even prior to receipt of proposal letter from BOC on 6 July 2010. The Letter from Ministry of Finance and Planning was addressed to BOC and did not mandate any investment by EPF. The investment amount of LKR 500 million was transferred on 13 July 2010, before ratification of the investment from MB on 5 August 2010.

4.9.4 Evidence of analysis performed by the MO as per prevalent guidelines was not available. No apparent cognizance of the fact was taken that SLA was a loss-making entity even before the investment was made and had an accumulated loss of LKR 2.71 billion as on 31 March 2010 and the loss in the preceding year i.e. 2009-10 was LKR 2.70 billion<sup>29</sup>.

4.9.5 Interviews with available former employees of EPF and CBSL revealed that the investment in SLA could have been in 'national interest' and with instructions from the 'top-most level'.

#### ***Investment in Sri Lankan Catering Private Limited (SLC)***

4.9.6 Investment in SLC was made despite MO and IC recommending against investing in Preference shares of SLC. MO highlighted multiple concerns based on analysis of various factors. Former Governor Mr. Ajith Nivard Cabraal met with SLC and facilitated the decision-making process and discussions with SLC related to the investment. A former Deputy Superintendent of EPF explained that a presentation was made by SLC to EPF, in

<sup>28</sup> West Coast Power Limited, Sri Lankan Airlines Limited and Sri Lankan Catering Limited

<sup>29</sup> Refer Paragraph 10.4.7 for the details on Sri Lankan Airlines Limited

which, Former Governor, Mr. Ajith Nivard Cabraal also participated. In his view, the decision may have been based on instructions from the government.

- 4.9.7 Concern raised by MO initially regarding board resolution by SLC for issuing Preference shares first to the parent company 'SLA' by reducing general reserves. Thereafter, buying back 40% of existing equity shares from SLA by reducing debtor balance receivable from SLA was potentially not included in the board paper presented to the MB for investment approval.

#### **Canwill Holdings Private Limited (CHPL)**

- 4.9.8 **The MB approved investment in CHPL and no evidence of IC approval was available.** Investment in CHPL was made despite multiple concerns raised by IC and MO in relation to financial and legal aspects. The investment (42% of CHPL's issued share capital) was in breach of limit of 10% laid down for investment in equity shares of a particular company, which requires IC approval.
- 4.9.9 Former Governor Mr. Ajith Nivard Cabraal gave inputs for changes to be made in the shareholder agreement, attended few meetings with CHPL and interacted with the EPF team involved in the decision-making process for the investment.
- 4.9.10 The available individuals (Former and current employees of EPF/CBSL) associated with investment in CHPL explained that EPF department was not in favour of submitting the proposal. Ms. C. Premaratne<sup>30</sup> stated "*EPF department was not in favour of submitting the proposal and it was not a very prudent investment considering the risks and returns according to her and the EPF department*". It was also explained that IC was not in favour of the proposal, but the investment was made based on MB approval.

#### **4.10 Safeguarding EPF's interest**

- 4.10.1 EPF had made certain investments which appear to be on the basis of instructions from personnel outside CBSL. Some of these investments were stated to be in "*the national interest*". However, due to such investments, EPF member funds have been deployed which have not resulted in gains. Further some of the investment in listed companies were made without adequate price evaluation and have led to losses. Some of the scrips, basis the price movement in ASPI and other factors, indicated unusual movements and EPF/CBSL employees have raised concerns about these trades.
- 4.10.2 Safeguarding EPF's interest was potentially not ensured post investment in Cargill's Agricultural and Commercial Bank Private Limited. It was noted that no director was appointed on the board of the Bank despite a clause in the shareholders' agreement. In

<sup>30</sup> Deputy Governor in-charge of EPF at the time of the investment



addition, no director appointment clause was included in case of agreement of Weligama Hotel Properties Limited.

4.10.3 No returns were received by EPF on investment in Cargill's Agricultural and Commercial Bank Private Limited, Weligama Hotel Properties Limited and Jetwing Symphony Limited.

#### 4.11 Voting rights

4.11.1 Investigation revealed that the EPF department did not have internal controls for the following key elements:

- Identification of all the AGMs in which EPF is required to vote;
- Tracking of voting by EPF in AGM/EGM of investee companies;
- Status update from officials after voting as proxies in AGM/EGM; and
- Appropriate record keeping of the voting rights exercised by EPF.

4.11.2 The IC in its meeting dated 23 March 2011 decided to vote 'for' the reappointment of the director in Commercial Bank of Ceylon PLC in AGM dated 30 March 2011. However, EPF voted in contravention to the decision of the IC. No rationale was provided for such contravention.

4.11.3 EPF purchased five million shares of Commercial Bank of Ceylon on 28 March 2011 and 29 March 2011, i.e. just prior to the AGM and EGM held on 30 March 2011. This purchase was in deviation of the IC approved quantity (2 million shares). The purchase may have aided EPF in accrual of additional voting rights just prior to the AGM and EGM since EPF's shareholding in Commercial Bank of Ceylon increased from 7.07% to 8.50%. A former Assistant Governor in charge of EPF explained that there could be an attempt to influence the selection of a Board Member through the government ownership in EPF collectively with other government entities.

4.11.4 Five cases were noted where EPF voted 'against' the resolution proposed by investee company. Neither any IC approval nor rationale for voting against was available in the documents provided for investigation. Out of these five cases, four cases related to re-election of directors whereas one case related to changes in Articles of Association.

4.11.5 During interviews with some of the individuals associated with the cases of EPF voting against resolutions, it was explained that they received instructions from higher management (Deputy Governor) to vote 'against' particular resolutions. One of the former employees also informed that a person from the Ministry of Finance had called him twice to advise him to vote 'differently'.

4.11.6 As per the minutes of the Monetary board papers<sup>31</sup>, EPF was restricted from buying banking stocks due to conflict of interest between CBSL as the banking regulator and the CBSL as its shareholder. It was noted that participation of EPF as a shareholder and

<sup>31</sup> Refer Paragraph 11.3.2 for investment in listed banking shares for the details





voting against appointment of directors in banking sector appears to be a potential conflict of interest.

#### 4.12 Comments on observations in the Auditor General's reports

4.12.1 The AG's observations were reviewed based on available documents provided by EPF. However, only partial information related to the responses to observations was made available. Further, EPF informed that it is not able to provide the names of officers and their respective departments responsible for the resolution of the AG's observations. EPF did not have a control mechanism in terms of Action Taken Reports (ATRs) vis-à-vis Auditor General's observations.

#### 4.13 Statement of economic interest

4.13.1 As per IPS 2001 and IPS 2002, IC members, Fund Management Unit staff and investment related staff were supposed to submit a statement of economic interest to disclose all potential investment and business interest for themselves and their immediate family members to the MB through IC on annual basis. This requirement was removed in 2011 and was reinstated in the revised IPS 2018.

4.13.2 Human Resource and Board secretariat departments have informed that employees submitted the disclosure in a sealed envelope and there was no review mechanism for the same. The sealed envelopes were opened only when there was a court order or regulatory investigation against the specific employee.

4.13.3 Analysis of trade data obtained from Colombo Stock Exchange (CSE) establishes that four employees were counterparty to multiple EPF transactions.<sup>32</sup> Declarations obtained from 70 employees related to trading activity of self/immediate family members in equity market revealed that 23 employees/their immediate family members had executed transactions in listed equities.

4.13.4 Existing controls regarding on potential conflict of interest of EPF employees appeared to be ineffective and there was no monitoring mechanism to track employee trading despite them being potentially privy to sensitive information related to EPF trades.

4.13.5 Some of the available current or former employees who were interviewed or who responded to questionnaires highlighted some of the concerns such as:

- Being directly approached by brokers / third parties to deal in stocks of companies;
- Preferential treatment to brokers;
- Leakage of information regarding EPF prior to it investing in a company;

#### 4.14 Information limitations and hindrances

4.14.1 During the investigations non-availability of records has been a hindrance to identify any potential collusion of other related events at the time of the investments. Electronic communications and voice recording equipment would have assisted in identification of circumstances leading to various decisions and actions.

4.14.2 Emails are not available prior to 2012, hence it is not possible to gather any additional evidence pertaining to potential collusion and violations prior to that period. Additional

<sup>32</sup> Refer Paragraph 8.2.14

information was sought from EPF current and former employees involved in the transactions. However, six employees did not come for interviews and no responses received from the former Governors. Response of 9 employees was not received related to declaration about their/immediate families trading activity while they were in EPF.

#### 4.15 Recommendations

4.15.1 Though not required by the stated scope of work, the investigation procedures revealed various control and process improvement opportunities at EPF/CBSL. The key recommendations are included in the final report were discussed with the current Governor Dr. Indrajit Coomaraswamy and Ms. K. M. A. N. Daulagala, (Assistant Governor, Board Secretariat). These key observations are broadly classified under the following heads:

- Investment and dealing room controls;
- System and IT controls; and
- Other areas (including updating or creating new policies and capacity building).

*The executive summary is not intended to be all-inclusive. It should be read in conjunction with the detailed report and its supporting annexures, charts and exhibits, and not as a substitute thereof.*

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## 5 About EPF - Contextual framework for investigation

### 5.1 About the fund

5.1.1 The EPF is the largest superannuation fund in Sri Lanka that was established and governed by the Employees' Provident Fund Act 1958 as amended (EPF Act). As per the provisions of the EPF Act, the MB acts as the custodian of the fund and is responsible for fund management. The main function of the EPF was to provide retirement benefit for the employees of the corporate and private sector to secure a better standard of living at retirement. Following are the key highlights of the EPF as on 31 December 2018 as per the published financial highlights:

- EPF had a total of 86,203 active contributing employers.
- EPF had a total 18.6 million members accounts
- The total asset base as on 31 December 2018 was LKR 2.29 trillion.
- The EPF receives approximately LKR 12 billion as monthly contributions from the members.

5.1.2 As per the provisions of EPF Act<sup>33</sup>, powers are delegated to the MB of CBSL as follows:

- *Section 5(1) (a) – “may appoint such officers and servants as may be required by the Board for exercising its powers, performing its duties and discharging its functions under this Act, fix the salaries and wages of such officers and servants and determine their conditions of service”.*
- *Section 5(1) (c) – “Shall have custody of the moneys of the fund”*
- *Section 5(1) (e) - “May invest such moneys of the Fund as are not immediately required for the purpose of this Act in such securities as the Board may consider fit and may sell such securities;”*

### 5.2 Monetary Board of CBSL

5.2.1 MB of CBSL was incorporated under the provisions of Section 9 (1) of the Monetary Law Act No. 58 of 1949 (MLA) and subsequent amendments. As mentioned above the MB acts as the custodian of the funds of the EPF and invests monies of the fund to maximize returns for the members of the EPF fund. MB has powers to:

- Hold property and assets and incur liabilities in the name of the CBSL.
- Enter into contracts in the name of the CBSL.
- Do and perform all such acts or things as may be necessary for the purposes of the Monetary Law Act.

5.2.2 MB comprises<sup>34</sup> of the Governor of the CBSL (as Chairman of the MB), the person holding the office of the Secretary to the Ministry of Finance and three members appointed by the President on the recommendation of the Minister of Finance, with the concurrence of the Constitutional Council.

5.2.3 Set out below is the list of Governors of CBSL who also acted in the capacity of chairmen of the MB:

<sup>33</sup> Relevant points have been extracted from the Employees' Provident Fund Act 1958 as amended

<sup>34</sup> Section 8 (2) of the MLA,



**Table 6 : List of Governors of CBSL**

Period	Name of the Governor
15 November 1995 to 30 June 2004	Mr. A.S. Jayawardena
1 July 2004 to 30 June 2006	Mr. Sunil Mendis
1 July 2006 to 9 January 2015	Mr. Ajith Nivard Cabraal
26 January 2015 to 30 June 2016	Mr. Arjuna Mahendran
2 July 2016 onwards till date	Dr. Indrajit Coomaraswamy
<i>Source: CBSL Website</i>	

5.2.4 To discharge the investment function of the EPF, the MB set up the Investment Committee (IC) on 3 March 1998 to look after day to day activities of investment function of the surplus funds of the EPF.

5.2.5 As per the Investment Policy Statement (IPS) and the Investment and Trading Guidelines (ITG), the MB may approve, reject or ratify the decisions of the IC. In case of certain investments in listed transactions, the Monetary Board had to ratify the transactions carried out by the EPF at the end of every month. In case of unlisted investments, prior approval of the MB was required as per ITG

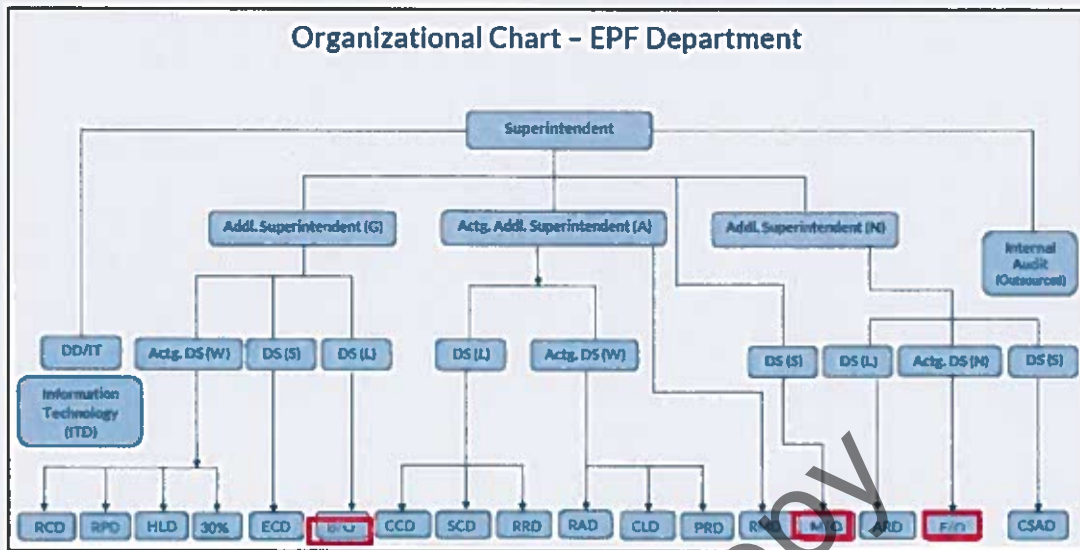
### 5.3 Organisation structure

5.3.1 The Superintendent of EPF heads EPF and is responsible for its day to day management. The Superintendent is assisted by the three Additional Superintendents who look after 17 divisions of the EPF, including investments of funds. Provided below is organisation structure<sup>35</sup> of EPF as in 2019. Out of the 17 divisions, investment activity was exclusively managed by the Fund Management Division (FMD) of EPF consisting of the FO (FO), Middle Office (MO) and the Back Office (BO). Investment Risk Management Division (IRMD) was introduced in 2014 to look after the compliance of transactions executed by the FMD and subsequently the role of IRMD was handled by Risk Management Division (RMD).

5.3.2 The three divisions - FO, MO and BO – are highlighted in the chart. The scope of work for the investigation pertained to the activities conducted by these divisions.

<sup>35</sup> Organisation chart pertains to the year 2019 and is indicative based on the information provided to KPMG. Organisation charts may have been different during Review Period, However the above mentioned was the chain of command in the EPF department during the tenure 1998 to 2017. Complete organisation structure for 1998-2016 was not available.

Chart 1: Organisational chart



5.3.3 The detailed names of the divisions within the EPF are set out in Annexure 7. The IRMD was also relevant for the investigation and was introduced in 2014 but subsequently merged with the middle office as per IPS 2018.

#### 5.4 Investment Committee

5.4.1 The IC was formed by the Monetary Board on 3 March 1998 comprising of the following members:

- Deputy Governor (DG) in charge of EPF as the Chairman
- Executive Director (Assistant Governor) in charge of EPF
- Superintendent of EPF (S/EPF)
- Additional Superintendent of EPF (Additional S/EPF)
- An officer from the Fund Management Division (FMD) acts as the Secretary.

5.4.2 During the period 1998 to 2017, the following Deputy Governors were in-charge of EPF and Chairman/person of IC.





**Table 7: Chairperson of IC**

Period	Name and designation
1998 to 17 Aug 2004	Information not available
18 August 2004 to 6 July 2009	Dr W.A. Wijewardena, Deputy Governor
7 July 2009 to 31 January 2010	Dr D.S. Wijesinghe, Deputy Governor
12 February 2010 to 14 June 2010	Mr. K.G.D.D. Dheerasinghe, Deputy Governor
15 June 2010 to 26 September 2011	Mr. P.D.J. Fernando, Deputy Governor
27 September 2011 to 16 September 2012	Mr. B.D.W.A. Silva, Deputy Governor
17 September 2012 to 19 June 2013	Ms. C. Premaratne, Deputy Governor
20 June 2013 to 8 February 2015	Dr. P.N. Weerasinghe, Deputy Governor
10 February 2015 to 23 January 2016	Mr. B.D.W.A. Silva, Deputy Governor
24 January 2016 to 29 April 2017	Mr. S. Lankathilake, Deputy Governor
2 May 2017 to 5 June 2017	Dr. Indrajit Coomaraswamy, Governor <sup>36</sup>
6 June 2017 to 31 October 2018	Mr. K.D. Ranasinghe, Deputy Governor

*Source: List of DG post 2004 provided by Human Resource department.*

5.4.3 The composition of the IC was changed from time to time and the same is provided in Annexure 8. However, the Deputy and Assistant Governor in charge of EPF, along with S/EPF and Additional S/EPF were always a part of the IC throughout the Review Period from 1998 to 2017. Detailed list of all the Assistant Governors and DGs in charge of EPF during the period 2004<sup>37</sup> to 2018 is set out in Annexure 9.

5.4.4 As per the laid down policy, the IC was supposed to meet daily during the period 1998 to 2011. The meeting frequency was changed to weekly in the Investment Policy Statement approved by the Monetary Board on 30 December 2011. However, the same was changed to daily meetings as per the IPS 2018<sup>38</sup>.

## 5.5 Portfolio breakdown

5.5.1 The MB of CBSL acts as a custodian of the funds of EPF. Annual reports during the Review Period were analysed and portfolio value by type of security is provided in Annexure 10 for all the years during the Review Period. Summary of select years is given below.

**Table 8: Percentage holding by security type for selected years**

Class of investments	1998	2003	2008	2009	2010	2011	2012	2017
	%	%	%	%	%	%	%	%
Rupee Loan	89.24	40.73	11.27	8.08	5.01	2.47	2.16	-
Treasury bonds	7.19	56.09	85.59	88.77	88.02	87.89	87.63	87.28
Treasury bills	1.55	1.51	0.00	0.06	0.68	0.00	2.89	3.52
Corporate Debentures	1.25	0.40	1.31	1.10	0.66	0.66	0.50	2.00
Trust Certificates	-	-	0.04	0.01	0.05	0.26	0.18	0.11
Commercial Papers	-	-	-	-	-	-	-	-

<sup>36</sup> Mr. Indrajit Coomaraswamy was in charge of EPF for a short duration

<sup>37</sup> The details of the AG and DG prior to 2004 were not available with the Human Resource Department.

<sup>38</sup> Not covered in the Review Period and referred for information purpose only



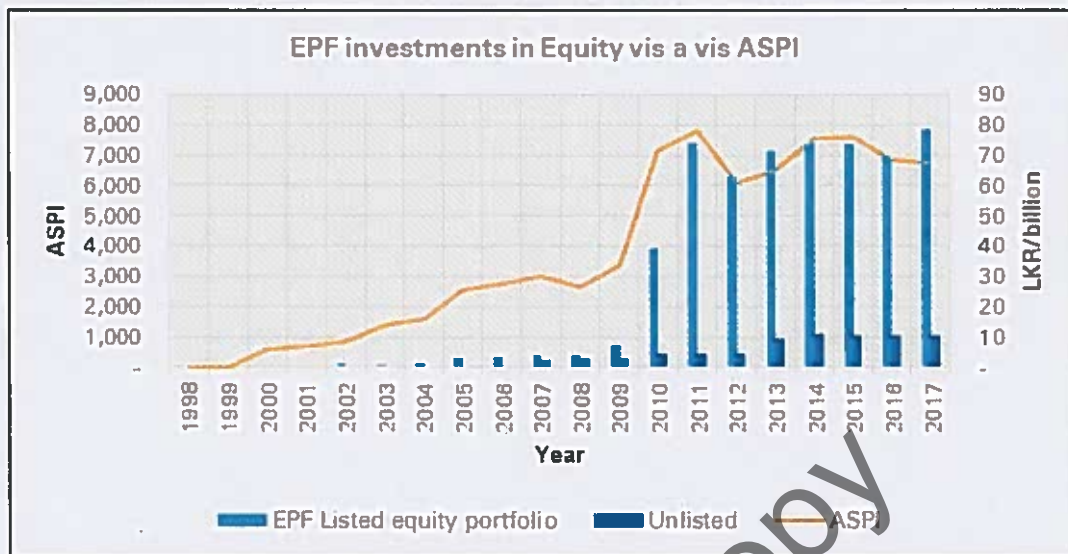
Class of investments	1998	2003	2008	2009	2010	2011	2012	2017
Repo	0.51	0.91	-	-	-	-	-	-
Reverse Repo	-	-	0.58	0.49	0.17	0.30	0.29	-
Mortgage backed Securities	-	-	0.08	0.08	0.07	0.05	0.04	-
Pass Through Certificates	-	-	-	-	-	-	-	-
Other Investments	-	-	-	-	-	-	-	2.48
<b>Total (A)</b>	<b>99.74</b>	<b>99.64</b>	<b>98.87</b>	<b>98.59</b>	<b>94.66</b>	<b>91.63</b>	<b>93.69</b>	<b>95.39</b>
Within KPMG Scope								
Listed Equity	0.26	0.33	0.64	0.98	4.80	7.90	5.89	4.05
Unlisted Equity	-	0.03	0.49	0.43	0.54	0.47	0.42	0.55
<b>Total (B)</b>	<b>0.26</b>	<b>0.36</b>	<b>1.13</b>	<b>1.41</b>	<b>5.34</b>	<b>8.37</b>	<b>6.31</b>	<b>4.61</b>
<b>Total (A+B)</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>
<i>Source: EPF annual reports for respective years</i>								

## 5.6 Equity Investments

- 5.6.1 The EPF currently receives approximately LKR 12 billion every month from member contributions. From the contribution, deductions in the form of member account payments (including interest and refunds) and expenses are deducted to arrive at investible surplus, which is invested in various securities including Government securities and equities.
- 5.6.2 In 1998, the EPF had invested 98 percent of its surplus in Government securities which accounted for 35 percent of the total domestic debt of the government. As per the MB paper submitted, the EPF portfolio was required to be diversified and a change in the investment policy was required for the purpose. To diversify the EPF portfolio, on 3 March 1998, MB approved the investment of EPF contribution in the equity market.
- 5.6.3 The All Share Price Index (ASPI) on the Colombo Stock market in the year 2000<sup>39</sup> was 574 points, which increased to 6,369 points as on 31 December 2017. The highest points for ASPI at the end of each year were compared with the listed and unlisted equity portfolio holding value, as depicted below:

<sup>39</sup> Data was available on the Colombo Stock Exchange website since 1 March 2000

Chart 2: EPF investment in equity vis-à-vis ASPI



5.6.4 The high for ASPI index increased from 3385.55 points during the year 2009 to 7147.77 in 2010.

**5.7 Employees Strength**

5.7.1 Human Resource Department (HRD) of CBSL identified 621 to be employed in the EPF department during 1998 to 2017. However, employee details provided by the HRD did not identify in which internal divisions within EPF department such as FMD i.e. FO, MO, BO or IRMD the employees were posted.

5.7.2 To identify the staff of FMD and IRMD, KPMG relied on the employees identified by the current EPF department personnel. A list of a total of 63 employees was provided by EPF which identified the employees in FMD and IRMD, during the period 2007 to 2017. Detailed list of 63 FMD employees is set out in Annexure 11.

5.7.3 Details of people working in the FMD prior to 2007 were not available from the EPF. IC minutes and the other documents available for investigation have been used to identify the people involved in decision making, wherever possible.

5.7.4 Emails were obtained from IT department of CBSL (extracted from CBSL server) for a total of 85 employees of the FMD and members of the IC. We added additional generic email ID being used by the employees and emails for the Governor. The following was the breakup of the emails:





**Table 9: Email data availability statistics**

Information source	Emails requested	Emails provided	Data not available
List provided by the EPF for FMD employees	63	54	9
Employees identified from the IC minutes	5	5	-
Assistant Governors and Deputy Governors of EPF involved in IC	17	10	7
<b>Total (A)</b>	<b>85</b>	<b>69</b>	<b>16</b>
Governors of CBSL/Governor generic email	4	4	-
Generic ID used by EPF	8	8	-
<b>Total (B)</b>	<b>12</b>	<b>12</b>	<b>0</b>
<b>Total count</b>	<b>97</b>	<b>81</b>	<b>16</b>

*Source: Email data provided by the IT department of CBSL*

5.7.5 The details of the names of the employees along with availability of the emails are provided in Annexure 12.

## 5.8 Information requirement and availability<sup>40</sup>

5.8.1 MB appointed KPMG<sup>41</sup> to investigate EPF's transactions during the period 1998-2017. The SoW included review of the investment/divestment in equities with specific focus on transactions above LKR 10 million, analyses of the voting by EPF against its investee company proposed resolutions in AGM/EGM, review of action taken by EPF on Auditor General's (AG) annual reports and identify collusion (if any) between individuals (Refer Paragraph 3.2 for detailed SoW).

5.8.2 Information availability for the scope under coverage was limited and some of the key aspects that impacted the extent of work are:

- Supporting documentation for investments in unlisted shares made by EPF prior to 2007.
- Transaction details of listed investments prior to introduction of SAP (These transactions were reviewed from information provided by CSE).
- Investment committee meetings for the year 1998, 1999, 2000 and 2003 were not available. This impacted review of 85 transactions above LKR 10 million during the four years.
- Deal tickets and settlement sheets were not available for transactions prior to 2008. The same impacted the identification of the dealers executing 511 transactions above LKR 10 million prior to 2008. In few deal tickets signatures of dealers were missing which impacted identification of personnel for interviews. (Refer Exhibit 4)
- Details of mapping of workstations used by employees of EPF was not available.
- Workstation/laptop used by Former Governor, Mr. Ajith Nivard Cabraal was not available for review. Former Governor, Mr. Ajith Nivard Cabraal was observed to be involved in multiple investment proposals. This impacted the review of digital evidence
- Unavailability of digital evidence from former Governor Mr. Arjuna Mahendran's iPad. The iPad was noted to be formatted without a user profile.

<sup>40</sup> Dividend details prior to 1 September 2006 not available

<sup>41</sup> MB appointed KPMG Sri Lanka vide contract dated 16 April 2019 which in turn appointed KPMG India to lead the engagement

- Complete list of votes casted by EPF for the Review Period. EPF was unable to provide entity wise details of resolutions where it opposed the recommendations of the boards of directors of investee companies and the rationale for the same.
- Non-availability of Auditor General reports for 1998 and 1999.
- Action Taken Reports (ATRs) were not available for Auditor General Observations.
- Unavailability of seven employees for interview (2 employees have not accepted to come, 2 employees did not respond to the request, 2 have shifted out of the country and 1 employee passed away).
- Former Governor Mr. Arjuna Mahendran was requested to respond a questionnaire and response for the same was not received.
- Former Governor Mr. Ajith Nivard Cabraal was requested to respond to a questionnaire and for a meeting. Responses to the questionnaire sent to Mr. Ajith Nivard Cabraal were not received. He had communicated with CBSL regarding his non-availability and communication between him and CBSL are provided in Exhibit 5.1 to 5.6.

5.8.3 Identification of collusion was endeavored, though unavailability of information has impacted the ability to identify risk of collusion between EPF employees and external third parties, if any. Given below is the summary of information broadly available (in green) and not available (in red).

Table 10: High level summary of information availability

Year	Email server data	Mapping of computers	Voice recording	Call logs	Investments in Unlisted shares	Listed - SAP Data	Voting proxy forms	Auditor general reports
1998	Email data not available	Computer tagging to employee not available.	Not implemented during the Review Period.	Itemised call logs were not available prior to 2011	Documents for unlisted investments prior to 2007 not available	SAP data backup not available prior to Sept 2006	Proxy forms not available	Not available
1999								
2000	Email data not available	Hard drive for Governor Mr. Ajith Nivard Cabraal not available for review.	Commenced on 3 August 2017 <sup>42</sup>	Directory of the calls was not maintained to identify the who the telephone number belongs to	Investments in Unlisted shares	Listed - SAP Data	Voting proxy forms	Auditor general reports
2001								
2002								
2003								
2004								
2005								
2006								
2007								
2008								
2009								
2010								
2011								
2012								
2013								
2014								
2015								
2016								
2017								

Source: Various minutes of the meeting, confirmations by the S/EPF and updates to FAMC

<sup>42</sup> EPF did not have any transactions above LKR 10 million post August 2017





## 6 Review of policy and guidelines

### 6.1 Governance structure for investments

- 6.1.1 EPF's investments are governed by the IPS and the ITG which have been approved by the Monetary Board for overall management of the funds.
- 6.1.2 IPS sets out the overall direction to the management of the funds, whereas ITG provides guidelines and procedures that should be followed in making, reporting and monitoring investments of the funds.

### 6.2 Review of policy framework and guidelines

#### *Policy Framework during the Review Period*

- 6.2.1 The investment policy and process for equity investments of the EPF department are governed by the MB approved IPS and the ITG respectively. The IPS and the ITG are formulated by the employees of the FMD in consultation with the IC and the management of EPF. The final approval of the IPS and ITG is provided by the MB.
- 6.2.2 For the period prior to 2001, the investment of EPF funds was governed by the directions given by the MB from time to time. On 3 March 1998, the Monetary Board paper laid down guidelines for investment in the equity market which were to be followed till the time Monetary Board approved policy was implemented.
- 6.2.3 The IPS was first introduced in 2001. Investment in the equity markets started post MB decision on 3 March 1998. However, in the MB paper dated 3 March 1998, the MB formulated the IC and delegated powers to management of EPF for taking informed investment decisions. The following were the timelines for the IPS and ITG:
- IPS - September 2001 approved by the MB on 21 December 2001
  - IPS - December 2002<sup>43</sup>
  - IPS - December 2011 approved by the MB on 30 December 2011
  - ITG - March 2007 approved by the MB on 27 March 2007
  - ITG - December 2011 approved by the MB on 30 December 2011

- 6.2.4 Following are some of the key policies in the IPS and ITG:

#### ***Asset allocation***

- 6.2.4.1 IPS 2001 – The fund will maintain domestic equity investments as a portion of the Fund portfolio with a maximum value equal to 2 % of the total value of the portfolio. The actual weighting can fluctuate at the discretion of the Fund Management unit subject to review and recommendation of the Investment Committee and the Monetary Board.
- 6.2.4.2 IPS 2002 - The fund will maintain domestic equity investments as a portion of the Fund portfolio with a maximum value equal to 2 % of the total value of the portfolio. The actual

<sup>43</sup> The board paper approving the said IPS 2002 was not available on records. The same was confirmed by the Board Secretariat department

weighting can fluctuate at the discretion of the Fund Management unit subject to review and recommendation of the Investment Committee and the Monetary Board

- 6.2.4.3 IPS 2011 - The asset allocation for equity portfolio was increased from 0.50 - 2.00 % in 2001 to 4 -15 % in 2011

***Trading portfolio and Investment portfolio***

- 6.2.4.4 Trading Portfolio (ITG 2007) - It consists of listed equities acquired for sale within a short holding period (normally less than one year) to earn profits from short term fluctuations in the prices due to company or market-related factors. The maximum allocation for the Trading portfolio shall be 20% of the Investment portfolio for listed equities. The rationale for this amount is that the large investment portfolio would enable to absorb any losses incurred in the Trading portfolio.
- 6.2.4.5 Investment Portfolio (ITG 2007) - It consists of listed equities acquired with the intention of earning profits in the long term (normal holding period exceeding 1 year) harnessing the value created by companies through capital appreciation and/or dividends. The maximum holding in shares of a company in the Investment Portfolio will be 7.99%<sup>44</sup> of the issued share capital of the company or 10% <sup>45</sup>of market value of the Investment portfolio, whichever is lower.
- 6.2.4.6 Under ITG 2011, Equities shall be bought for the investment portfolio with the intention of holding them for more than one year to earn profits through capital appreciation and/or dividends. Nevertheless, the shares in the investment portfolio may be sold within a period less than one year, if the shares become over valued. Generally, shares are purchased for the trading portfolio with the intention of holding the share for a maximum period of 1 year and to earn a gain from short term price fluctuations.

***Investment objective***

- 6.2.4.7 Following was the investment objective mentioned in the IPS during the Review Period :
- IPS 2001 – Earn 4% real rate of return over the annual inflation measured in terms of GDP deflator
  - IPS 2002 – Earn 4% real rate of return over the annual inflation measured in terms of GDP deflator
  - IPS 2011 – Give at least 1.5% positive real rate of return over and above annual average inflation measured by GDP deflator

<sup>44</sup> If the shareholding in a company exceeds 10%, the SEC makes a public announcement. To prevent such public exposure as much as possible, EPF generally limits its local exposure to a company to below 10% of the issued capital (7.99% in the investment portfolio and 2% in the Trading portfolio).

<sup>45</sup> The value of an investment in shares of a company is limited to 10% of the cost value of the investment portfolio, as a risk control mechanism.



***Individual security limit in a company***

- 6.2.4.8 IPS 2001 - Unless agreed by the Investment committee, investment in any company should not exceed 5% of its issued share capital. Reasons for the same are (a) not sufficient liquidity and (b) avoid undue control of the company by the fund.
- 6.2.4.9 IPS 2002 - Unless agreed by the Investment committee, investment in any company should not exceed 5% of its issued share capital. Reasons for the same are (a) not sufficient liquidity and (b) avoid undue control of the company by the fund
- 6.2.4.10 ITG 2007 - In case of Trading portfolio, the limit is 2% of the Issued capital of the company, or 10% of the Trading portfolio, whichever is lower.
- In case of Investment portfolio, the limit is 7.99% of the issued capital of the company, or 10% of the investment portfolio, whichever is lower.
- 6.2.4.11 ITG 2011 - Generally, the maximum exposure for a company in the investment portfolio shall be 10% of the issued share capital of the company or 20 % of the cost of total equity portfolio of EPF, whichever is lower. However, subject to MB approval, IC may change the limit stated for the specific companies on recommendation made by the middle office.

***Shareholding limit in a company***

- 6.2.4.12 IPS 2001 - Unless agreed by the Investment committee, investment in any company should not exceed 5% of its issued share capital. Reasons for the same are (a) not sufficient liquidity and (b) avoid undue control of the company by the fund.
- 6.2.4.13 The fund must make sure that investment in any company is made only with an intention to increase the return of the Fund and not to take control over the company. As discretion of the investment committee, the fund can vote, at Annual General Meetings (AGM) of the invested companies.
- 6.2.4.14 IPS 2002 - Unless agreed by the Investment committee, investment in any company should not exceed 5% of its issued share capital. Reasons for the same are (a) not sufficient liquidity and (b) avoid undue control of the company by the fund.
- The fund must make sure that investment in any company is made only with an intention to increase the return of the Fund and not to take control over the company. As discretion of the investment committee, the fund can vote, at annual general meetings of the invested companies.
- 6.2.4.15 IPS 2011 - The fund is allowed to invest in listed and unlisted common and preferential equities of companies approved by IC and MB.
- 6.2.4.16 Investment in voting shares exceeding 10% of the issued share capital of a company shall be made with the approval of IC and MB. The fund should not directly or indirectly control the company concerned without the approval of IC and MB.

***Investment in other entities regulated by CBSL***



- 6.2.4.17 IPS 2001 - The Fund cannot invest in stocks of the banking and financial sector since the Monetary Board regulates both EPF, banks and financial institutions.
- 6.2.4.18 IPS 2002 - The Fund cannot invest in stocks of the banking and financial sector since the Monetary Board regulates both EPF, banks and financial institutions
- 6.2.4.19 IPS 2011 - In view of reaping benefits of the fast-growing banking and financial sector of the economy, the Fund may invest in banking and financial institutions. However, the Fund must make sure that the investment in such investment in such institutions is made only with the intention to increase the return of the Fund and not to take the control over the company since MB regulates banking and financial institutions while managing the Fund

***Investment in unlisted entities – Banks and others***

- 6.2.4.20 IPS 2001 - Investment in unlisted equity securities of banks and financial institutions shall be permissible only in so far (a) new investment institution with a long-term motive of the investment, (b) the investment account is passively managed, and the relevant index contains such securities. Investment in unregistered or restricted securities are not permissible without the Monetary Board's specific prior written approval.
- 6.2.5 IPS 2002 - Investment in unlisted equity securities of banks and financial institutions shall be permissible only in so far (a) new investment institution with a long-term motive of the investment, (b) the investment account is passively managed, and the relevant index contains such securities. Investment in unregistered or restricted securities are not permissible without the Monetary Board's specific prior written approval.
- 6.2.6 IPS 2011 - The following securities are eligible investments for the Fund
- Fixed income securities such as government securities and corporate debt instruments
  - Listed and unlisted common and preferential equities.
  - Any other securities (including foreign currency denominated securities issued locally or abroad) which are considered as fit by MB.

***Approved Share List (ASL)***

- 6.2.7 ITG 2007 - Approved shares are the scrips listed on CSE that have been approved by the Board to be included in either the trading or investment or both portfolios of the EPF. The list consisting of these shares is named the "Approved Shared List". Further, these companies should be in compliance with applicable regulations. The responsibility of obtaining approval to include new shares in the "Approved Share List" is vested with the Middle Office.
- 6.2.8 ITG 2011 - The fund shall maintain an approved share list for the listed equity investment comprising of shares listed on CSE. The middle office post its analysis of the scrip shall make recommendations to the IC by way of a report or presentation to include the scrip in ASL. IC shall consider the recommendation by middle office and may approve or



disapprove of the inclusion of a scrip in the ASL subject to MB approval. Only the scrips approved by MB shall be included in the "Approved Share List".

- 6.2.8.1 EPF shall maintain an ASL for the equity trading portfolio and shall purchase shares only from companies which are in the ASL. The companies which are approved for the investment portfolio shall also be included in the ASL of the trading portfolio. Middle office will recommend to IC, the shares to be included in the ASL. IC may approve or disapprove the inclusion of the share to the ASL of the equity trading portfolio and such approval shall be subject to the ratification of MB.

***Policy regarding investment in companies outside Approved Share List***

- 6.2.9 ITG 2007 - Investments in shares of a new company (not included in the "Approved Share List") recommended by the middle office may be made with the approval of the IC and special approval of the Governor of the CBSL. At any time, only shares of 5 such companies can be approved. The investment decision shall be ratified at the Board meeting to be held immediately thereafter.
- 6.2.10 ITG 2011 - In special circumstances, EPF may purchase shares of a company which is not included in the ASL in consultation with the members of IC and the Governor. Fund Management Division shall obtain ratification of IC and MB subsequently. In the event where EPF has bought shares not in ASL, MO shall inform IC and the rationale for the decision in next IC meeting. IC may ratify the inclusion of the scrip in the ASL and the purchase of the share, subject to approval of MB.

***Policies regarding divestment (Selling at a loss)***

- 6.2.11 ITG 2007 - In Investment portfolio, in case of extreme situations, selling of listed equities at a loss may be considered to minimize further losses. The IC will take a decision based on the recommendation of the middle office. Also, all securities in the Investment portfolio will be marked to market at the end of each week<sup>46</sup>.

In Trading portfolio, if prices are declining, the FO could engage in intra-day trading of shares and sell at a loss, if the loss from such trading is covered by the saving in brokerage that would be incurred if the decision to sell is postponed to the next day. The FO should justify the decision to the IC on the following day. Also, all securities in the Trading portfolio will be marked to market at the end of each week<sup>47</sup> and on the accounting date/ end of each day's trading.

- 6.2.12 ITG 2011 - In extreme situations for investment portfolio, selling of listed equities at a loss may be considered to minimize further losses. IC shall have the authority to decide based on the recommendation of the middle office.

In case of trading portfolio, selling of listed equities at a loss may be considered to minimize losses. The FO has to make the recommendation along with appropriate reasoning to IC. Based on this recommendation, IC shall decide either to sell at a loss or to hold the shares.

<sup>46</sup> Para 2.7 of ITG

<sup>47</sup> Para 3.7 of ITG

***Policy regarding avoidance of conflict of interest (Statement of economic interest)***

- 6.2.13 IPS 2001 – Annually Investment Committee members, Fund Management Unit staff and Investment related staff must complete a statement of economic interest to disclose all potential investment and business interest for himself /herself and immediate family to the MB through IC
- 6.2.14 IPS 2002 - Annually Investment Committee members, Fund Management Unit staff and Investment related staff must complete a statement of economic interest to disclose all potential investment and business interest for himself /herself and immediate family to the MB through IC
- 6.2.15 IPS 2011 – There was no requirement for Statement of Conflict of interest in IPS 2011.

**6.3 Review of processes**

***Decision making matrix for investments***

- 6.3.1 MB is the final decision-making authority for the investment of the EPF funds. However, certain powers for investment decisions have been delegated by the MB to the IC as per the provisions of Section 5 (1) a of the EPF Act.
- 6.3.2 The EPF maintained two portfolios namely 'Investment portfolio' for long term (more than one year) investments and 'Trading portfolio' to benefit from short term (less than one year) price fluctuations. The companies to be included in the investment and trading portfolio were to be approved by the IC and the MB for addition to the Approved Share List. The process for execution of transactions varied at different points of time during the Review Period. The changes to the policy over the Review Period are detailed in Paragraph 6.5 and 6.6 below. The brief process during the period was:
- 6.3.2.1 Trading portfolio - Decisions for transactions in the trading portfolio were delegated to the officers of FMD based on limits detailed in Paragraph 6.6.1 of the report. The transactions in the trading portfolio were to be subsequently ratified by the IC in immediate meetings and MB on a monthly basis.
- 6.3.2.2 Investment portfolio - The transactions in the Investment portfolio had to be approved by the IC in the weekly plan and then executed by the FMD. The IC would approve the quantity and the price at which the transaction should be executed on a weekly/daily basis. The FO would execute the transaction as per the approved weekly/daily plan of the IC.
- 6.3.3 The FMD assists the IC for execution of trades, analysis of the equity stocks and settlement of trades. These functions are performed by the FO, MO and the BO respectively. A meeting with current EPF staff was held on 25 June 2019 to understand the overall framework for investments by EPF in equities. Following were the brief role descriptions of the FMD employees:
- FO was involved in active trading of equities in trading portfolio and execution of trades for investment portfolio in accordance with the equity investment plan approved by IC. The FO would get the transaction ratified by the IC in the subsequent meetings.

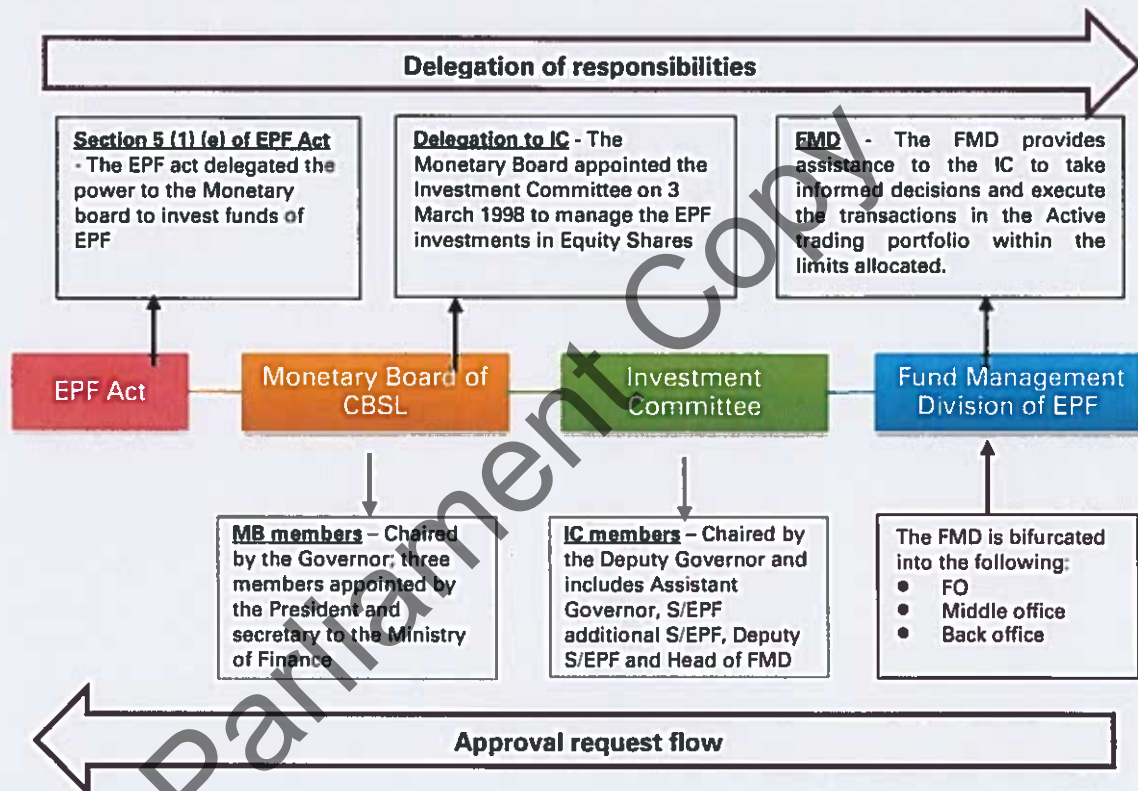


- MO was primarily responsible for the analysis of the equity investments of the investment portfolio and submit the same to the IC and MB. The MO would also prepare the weekly plan for investment portfolio and submit it to IC for approval.

6.3.4 BO carried out the settlement of the transactions of EPF. BO was also the record-keeper/custodian for proxy forms for signature in case of voting for Annual General Meeting (AGM) and Extra ordinary General Meeting (EGM).

6.3.5 The below chart explains the delegation of authority and approval request flow for EPF investment decisions:

**Chart 3: Delegation of responsibilities for EPF**



## 6.4 Control environment

6.4.1 During the investigation, weakness in various general controls were discovered that have caused significant limitations to our work. Following key aspects need improvements at EPF/CBSL to make the review/investigative process more effective going forward:

### **Retention of documents**

6.4.2 Section 116 (Company Records) of the Companies' Act 2007, stipulates that any company or body corporate in Sri Lanka is mandated to maintain its records for a period of 10 years. Majority of the investee companies did not provide details of voting prior to 2009 citing the provision in the Companies Act 2007.

6.4.3 Section 7 (3) of the Right to Information Act 2016, prescribes that every public authority shall maintain and preserve data for a period not less than 12 years. Further Section 7 (5)

of the act states that all public authorities shall endeavor to preserve all its records in electronic formats. Following details were unavailable with EPF:

- Copies of proxy forms for voting done by EPF were unavailable prior to 2010.
- Organisation structure of EPF prior to 2016.

6.4.4 The physical copy of the files within the EPF were under the joint custody of the EPF and the Internal Audit division of CBSL. During the investigation, it was noted that the working papers and details of analysis of the Middle Office of the FMD were not available. The Middle Office presented its observations and recommendations in the IC meetings. However, no evidence of supporting analysis, workings and calculations of the Middle office were available to KPMG in the documents.

6.4.5 EPF maintains the records of investments and corporate actions in the SAP accounting system<sup>48</sup>. However, EPF had maintained proxy for data only for the AGM/EGM held post June 2010. Data prior to 2010 was not available.

#### ***IT Infrastructure: Computers***

6.4.6 During the investigation it was identified that procurement of IT infrastructure for the EPF was not done centrally by the CBSL administration team but by the EPF administration team. Accordingly, the fixed assets register was maintained by EPF administration team. Due to this reason, whenever an employee from EPF was transferred to another department, the computer stayed in EPF.

6.4.7 To conduct Forensic imaging of the computers, used by EPF employees at various points of time in the Review Period, it was necessary to identify the workstation used by the EPF employee during his tenure in EPF. However, it was noted that the computers used by EPF employees were not mapped to a specific employee code/identity number and a computer was being used by multiple users. Due to this reason, identification of computers used by current as well as former EPF employees was not readily available.

6.4.8 In the absence of any ability to map assets to a specific employee, KPMG performed a digital imaging of the current workstations in the FMD of EPF based on the user profiles available in the workstation. The details of user profile were provided to KPMG by the IT department. The details of old machines used by employees in the EPF and the workstations were not available for digital imaging.

6.4.9 Workstation/laptop used by Former Governor, Mr. Ajith Nivard Cabraal was not available for imaging. Former Governor, Mr. Ajith Nivard Cabraal was observed to be involved in multiple investment proposals and non-availability of data on his computer impacted the review of digital evidence review.

6.4.10 Former Governor Mr. Arjuna Mahendran had used an iPad during his tenure in the CBSL. The said iPad, when obtained for forensic imaging was noted to be formatted without a user profile. Hence, forensic image of the said device could not be obtained. On review of emails for former Governor, Mr. Mahendran it was noted that at the end of his tenure, he had shared files on his personal email id for information on *"how to format a hard drive*

<sup>48</sup> Introduced in the EPF department on 1 September 2006.



in windows vista 7 or 8: plus how to format hard drive from BIOS" Refer Exhibit 6 for the details.

**IT Infrastructure: Electronic mails**

6.4.11 During the Review Period, 1998 to 2017, multiple email servers were used in CBSL. The details of the same are as follows:

**Table 11: Server details**

Sr. No	Date from	Date to	Email server	Version	Record Availability
1	1998	2001	Outlook 97	8	No
2	2001	March 2006	Outlook 2000	9	
			Outlook 2003	11	
3	March 2006	May 2011	Lotus Notes	7	Yes
4	May 2011	April 2015	Outlook 2007	12	
5	April 2013	Current	Outlook 2010	14	
6	July 2016	Current	Outlook 2013	15	
7	June 2017	Current	Outlook 365 with Litigation hold	16	

*Source: Minutes of the meeting with Director Information Technology*

6.4.12 Out of the above-mentioned email sources, CBSL IT team provided us the current state of the active user mailbox/s on Outlook 365 environment, which is operating with litigation hold since June 2017.

6.4.13 The concept of litigation hold<sup>49</sup> was introduced in June 2017 post implementation of Outlook 365. Deleted emails prior to June 2017 were not available for investigation due to the absence of litigation hold.

6.4.14 Apart from server data, CBSL IT and EPF admin teams identified 42 workstations of EPF which included desktops as well as laptops. Workstations were shared by multiple users within EPF. The list of machines imaged during the review is provided in Annexure 13.

**Other areas**

6.4.15 Voice logger system was implemented in the dealing room by EPF on 3 August 2017. There was no voice logger installed in the EPF department prior to 3 August 2017 and hence voice recordings for execution of transactions were not available for the Review Period<sup>50</sup>. During the investigation various instances were noted in which the telephonic instructions were given for certain transactions. Some of the examples are:

- Letter from Merchant Bank of Sri Lanka (MBSL) to Mr. M.J.S. Abeysinghe (S/EPF) dated 24 November 2009 regarding changes to the terms of proposal with reference to 'telephonic conversation' with Mr. B.H.I.S. Kumara<sup>51 & 52</sup>

<sup>49</sup> With the implementation of Litigation hold, emails deleted by the user from his computer would be backed up on the server.

<sup>50</sup> During the period between 2 August 2017 and 31 December 2017, EPF did not carry out equity investment transactions above LKR 10 million

<sup>51</sup> Mr. B H I S Kumara was Fund Manager of EPF. Typically Fund Managers in a dealing room converse on a recorded line. Refer Exhibit 34 for the details.

<sup>52</sup> Mr. B.H.I.S Kumara was interdicted with effect from 10 July 2017 for alleged involvement in the Bond issuance scam as per the investigation carried out by PCOI.

- Letter from MBSL to Dr. D.S. Wijesinghe (DG) dated 16 December 2009 regarding changes to the proposal with reference to 'telephonic conversation' with Mr. B.H.I.S. Kumara

6.4.16 Absence of a documented process for empanelment/dis-empanelment and review of performance of the broker in IPS and ITG applicable prior to 2018. There was no list of empaneled brokers during the period under investigation. Further, there were no specific guidelines related to deal execution by brokers, maximum/minimum brokerage to be paid to brokers and confidentiality of information to be maintained by brokers. However, in the revised ITG for 2018 approved by the Monetary Board on 30 June 2018, we understand that specific guidelines for empanelment of brokers have been introduced.

## 6.5 Key changes in IPS and its impact

### *Asset allocation to equity*

6.5.1 The maximum limit of equity investments as a percentage of total investments of EPF was changed from 2 percent to 15 percent in 2011. The change was introduced to facilitate the diversification of the EPF funds, as identified from the Monetary Board papers. The EPF breached the threshold limit of 2 percent of the total value of portfolio as at the end of 2010 and 2011.

### *Investment objective*

6.5.2 The rate of return for the investment objective was reduced from 4 percent to 1.5 percent in the year 2011. The rationale for the change as per the Monetary Board paper was "to allow the fund to have a long-term view and more realistic targets, taking into consideration the future economic outlook of the country and avoid taking excessive risk in managing the fund".

### *Individual security limit*

6.5.3 The individual security limit i.e. maximum investment for investment in a company was increased from 5 percent to 10 percent on 31 December 2011. The rationale for the change was not expressly mentioned in the board paper. However, on review of IC minutes dated 20 December 2011<sup>53</sup>, investments in 38 companies was noted to be more than 5 percent, as on 31 December 2011. Details of the same are provided in Annexure 14.

### *Statement of economic interest and code of conduct*

6.5.4 As per IPS 2001 and IPS 2002, IC members, Fund Management Unit staff and investment related staff were supposed to submit a statement of economic interest to disclose all potential investment and business interest for themselves and their immediate family members to the MB through IC on an annual basis. This requirement was removed in 2011.

6.5.5 The said disclosure was removed considering that all officers in the IC and Fund Management Division are required to submit assets and liability statement annually as

<sup>53</sup> Investment committee meeting prior to change of policy and process



per guidelines of the CBSL. However, it was understood that subsequently in 2018, the statement of economic interest was reinstated in the revised IPS 2018.

- 6.5.6 Human Resource department and Board secretariat informed that the disclosure of economic interest under the CBSL requirements was submitted by the employees in a sealed envelope and there was no review mechanism for the same. The sealed envelopes were opened only when there has been a court order or regulatory investigation against the specific employee.
- 6.5.7 During the course of the investigation, declarations were requested from 79 employees who worked in the EPF department. Out of the 79 employees', 70 employees<sup>54</sup> responded and provided details of their transactions and those done by their immediate family members in equity market. Analysis of such declarations revealed that 23 employees/their immediate family members had executed transactions in listed equities (Annexure 15 and Exhibit 7.1 to 7.23).
- 6.5.8 Relevant information was requested from the HR department to validate employee declarations with annual statement of economic interest. However, such information was not made available. CBSL needs to validate whether respective employees had appropriately provided declarations while they served in EPF.
- 6.5.9 Some of the employees, during interviews, explained instances which suggest that the code of conduct at EPF should have been stringent and monitored on a regular basis. Following are some areas which were highlighted:
- Dr. P.N. Weerasinghe (Senior Deputy Governor) said
    - *"A Member of Parliament had approached him with a bulk deal to sell Access Engineering PLC. The DG responded by asking them to direct the proposal to EPF for proper analysis. However, on analysis of the proposal by EPF it was identified that the price which was offered was higher than the market price of the share."*
    - *"An executive (Mr. Seneviratne) from Nation Lanka approached him several times giving reference to a discussion with the Governor with an intention to sell a substantial stake of his company. The DG responded by asking them to direct the proposal to EPF for proper analysis. However, on analysis of the proposal by EPF it was identified that the acceptable price was lower than the price offered by the counterparty."*
    - *"When he joined the EPF, there were concerns from the brokers on preferential treatment. He then instructed the dealers and the FMD employees to diversify the investment among all stockbrokers."*  
*"He noted that whenever EPF decided to invest in the equity, this news would be leaked in the market and prices would rise."*
  - Mr. T. Udayaseelan (Senior Assistant Superintendent) said *"Transactions executed are with the approval of the senior management and are within the Monetary Board approved policy documents. Members of IC may have instructed. Sometimes, it was informed that G instructed to execute this transaction to S/EPF."* He also stated that certain times *"senior management"* gave instructions for entering into crossing transactions with specified counterparties.
  - Mr. L.D.D.Y. Perera (Deputy Superintendent/ Additional Superintendent) said *"There were certain instances where counterparties were known, and brokers would reveal the counterparties."*

<sup>54</sup> Letters sent to seven employees were returned without being accepted and three employees did not respond

## 6.6 Key changes to ITG and its impact

### *Delegation of authority for trading portfolio*

- 6.6.1 As per the ITG 2007, a trading limit of LKR 10 million was given to Superintendent for executing transactions in the trading portfolio. The said limit was increased to LKR 30 million for FO in ITG 2011. In addition to this, the limits granted could be further enhanced by the FO based on transaction volume with specific approvals. The frequency of the meetings of the IC was changed from daily to weekly in ITG 2011, and to provide more flexibility to the management of the funds in the trading portfolio the said limits were increased.
- 6.6.2 The investments in the trading portfolio were executed by the FMD employees or the fund managers based on the limits granted. Prior approval of the Investment Committee was not required for the investments in the trading portfolio if the transactions were within the limits. Transactions were only to be ratified by the Investment Committee and Monetary board. Trading limits were also changed during the Review Period.

**Table 12: Changes to trading limits**

Date of MB approval	Portfolio limit	Officer's daily trading limits / Remarks	Changes made through
31 August 2009	LKR 100 million	1. Officers of FMD – Up to four million 2. Deputy Superintendent – Up to 10 million 3. S/EPF and Additional S/EPF – Up to 20 million 4. AG in charge of EPF – 20 million and above	Monetary Board Papers
17 November 2009	LKR 250 million	Individual trading Limits were not changed. The Cost of portfolio at the time this change was LKR 83.70 million	Monetary Board Papers
9 March 2010	LKR One billion	1. Dealer of FMU – Up to LKR 30 million 2. Deputy Superintendent – Up to LKR 50 million 3. S/EPF and Additional S/EPF – Up to LKR 100 million 4. AG in charge of EPF – LKR 100 million and above The cost of portfolio at the time of the change was LKR 200 million	Monetary Board papers
30 December 2011	LKR One billion	1. Dealer of FMU – Up to LKR 30 million 2. Deputy Superintendent – Up to LKR 50 million 3. S/EPF and Additional S/EPF – Up to LKR 100 million 4. AG in charge of EPF – LKR 200 million 5. Governor/ Deputy Governor – Above LKR 200 million	Investment Trading Guidelines 2011
6 December 2013	LKR 10 billion	Limits were not changed. However, the unrealized loss on the trading portfolio was LKR 100 million as on 19 November 2013.	Monetary Board paper

*Source: Changes made to the trading limits through Monetary Board papers*





- 6.6.3 Prior approval of the Investment Committee was not required for the transactions within the trading limits given to the dealers. The requirement was to get such transactions ratified by the Investment Committee.

***Voting rights***

- 6.6.4 IPS 2001 allowed for voting at the Annual General Meetings (AGMs) at the discretion of the Investment Committee. The word AGM was replaced with Shareholders meeting to include AGM and EGM in the year 2011. The voting was to be done at the discretion of the IC.
- 6.6.5 ITG 2007 did not provide any guidelines for voting at AGM and EGM. However, in ITG 2011, Middle Office was required to obtain prior approval of the IC to vote for or against proposals only in case of EGM. There were no such requirements mentioned in case of AGMs.
- 6.6.6 As per the Monetary Board paper 31 March 2017, the Monetary Board decided that EPF would be a passive investor and would vote only in favor of the management of Investee Company (Company in which EPF has invested funds). The EPF would obtain Monetary Board approval for voting against the decision of the Investee Company.

***Shareholding Limit in a company***

- 6.6.7 Maximum limit of 2 percent of trading portfolio was removed in 2011. Limits for Investment portfolio hiked from 7.99 percent to 10 percent in 2011.

***Investment in companies which are not a part of ASL***

- 6.6.8 As per ITG 2002, prior approval of the Governor was required for investment in companies that were not in the Approved Share List (ASL) and was not approved by the Monetary Board. However, as per ITG 2011, such investment could be made without prior approval of Monetary Board and only after consulting with the Governor. During the investigation, 22 instances were noted between during 2007<sup>55</sup> to 2011, wherein no documentary evidence was available to suggest that the investment was made after approval of the Governor. Refer Annexure 16 for the list of entities.
- 6.6.9 The details of other changes made to the IPS and ITG during the period 1 January 1998 to 31 December 2017 are provided in Annexure 17 (changes to the IPS), Annexure 18 (changes to the ITG) and Annexure 19 (changes to the policy through Monetary Board Papers).

*(This space is intentionally left blank)*

<sup>55</sup> The requirement for taking prior approval of the Governor for purchasing companies not in the Approved share list was introduced in the Investment trading guidelines for 2007. The same was changed to consultation of the governor in the year 2012.

## 7 EPF's investments in unlisted equity

### 7.1 Investment summary

7.1.1 EPF has made 17 investments in unlisted companies during the period 1 January 1998 to 31 March 2017. Given below is the investment by entity and dividend received till 2017 and capital gain / (loss) or (impairment) by investment.

Table 13: Details of EPF investment in unlisted companies

#	Name of the company	Year	Held/ Disposed	Total investment (LKR/ million)	Dividends received (LKR/ million)	Capital gain/ (loss <sup>56</sup> ) (LKR/ million)
1	Kandurata Development Bank	1998	Disposed	12.00	6.19	6.01
2	Rajarata Development Bank	1998	Disposed	12.00	5.15	12.7
3	Ruhunu Development Bank	1998	Disposed	12.00	8.07	30.04
4	Uva Development Bank	1999	Disposed	12.00	2.88	10.71
5	Fitch Ratings Lanka Limited	1999	Held	0.63	1.73	-
6	Sabaragamuwa Development Bank	1999	Disposed	12.00	6.24	10.16
7	Wayamba Development Bank	1999	Disposed	12.00	8.76	32.58
8	NDB Housing Bank Limited <sup>57</sup>	2001	Disposed	30.00	-	9.00 <sup>58</sup>
9	Commercial Bank 13% preference shares	2006	Disposed	100.00	9.37	No capital gain as preference shares <sup>59</sup>
10	Commercial Bank 11.25% preference shares	2006	Disposed	75.00	19.93	No capital gain as preference shares <sup>59</sup>
11	West Coast Power (Pvt) Limited	2007	Held	2,975.00	5,341.48	-
12	Sri Lankan Airlines Limited	2010	Held	500.00	-	(500.00) <sup>60</sup>
13	Sri Lankan Catering 15% Preference shares	2010	Held	1,000.00	1,046.70	-
14	Canwill Holdings (Pvt) Limited	2013	Held	5,000.00	5.00	-

<sup>56</sup> Gain and loss is calculated based on profit and loss booked in the SAP. Unrealized or unaccounted losses have not been considered in the absence of valuation reports.

<sup>57</sup> The entries pertaining to purchase, sale and dividend income received in case of NDB Housing Bank Limited was not available in the SAP data

<sup>58</sup> The profit is calculated from the MB papers. It was noted that the said unlisted shares were sold for LKR 39 million and hence the profit of LKR 9 million (39-30) was calculated.

<sup>59</sup> The preference shares were sold at par value as per the SAP data

<sup>60</sup> Impairment loss



#	Name of the company	Year	Held/ Disposed	Total investment (LKR/ million)	Dividends received (LKR/ million)	Capital gain/ (loss <sup>60</sup> ) (LKR/ million)
15	Cargills Agricultural and Commercial Bank Private Limited	2014	Held	495.00	-	-
16	Weligama Hotel Properties Limited	2014	Held	405.00	-	-
17	Jetwing Symphony Limited	2014	Held	390.00	-	-
<b>Total</b>				<b>11,042.63</b>	<b>6,461.50</b>	<b>(388.79)</b>

Source: SAP data provided by EPF

## 7.2 Non-compliances with applicable policies and guidelines

7.2.1 The investment function of the EPF is governed by the IPS and the ITG. However, there was no documented policy for investment in unlisted shares prior to 2011. It was noted that IPS 2001 requires prior approval of the IC and the MB for investment of EPF funds. Based on the documents provided for review, the policy compliance for investment in unlisted equity was evaluated. On review of the IPS and ITG the below mentioned points in respect of investments in unlisted equity were noted:

### *Investment in unlisted banking shares allowed as per IPS 2001*

7.2.2 On review of the IPS and ITG, it was noted that Paragraph 7.3.6 of IPS 2001 and Paragraph 2.6.2.2 of IPS 2002 allowed investment in unlisted shares of banking and financial institutions. (Refer Exhibit 8 and 9). IPS 2001 does not expressly cover any guidelines for investment in shares of unlisted companies other than banking and financial institutions. The information available did not show any evidence that investments in non-banking and financial institutions were permitted prior to 2001.

**Table 14: Investment in unlisted banking shares**

Sr no	Name of the company	Year of investment	Total investment (LKR/ million)	Dividends received (LKR/ million)
Investments prior to IPS 2001				
1	Kandurata Development Bank	1998	12.00	6.19
2	Rajarata Development Bank	1998	12.00	5.15
3	Ruhunu Development Bank	1998	12.00	8.07
4	Uva Development Bank	1999	12.00	2.88
5	Sabaragamuwa Development Bank	1999	12.00	6.24
6	Wayamba Development Bank	1999	12.00	8.76
7	Fitch Ratings Lanka Limited	1999	0.63	1.73
8	NDB Housing Bank	2001	30.00	-. <sup>61</sup>
<b>Total</b>			<b>102.63</b>	<b>39.02</b>

Source: SAP data provided by the EPF

<sup>61</sup> The entries pertaining to purchase, sale and dividend income received in case of NDB Housing Bank Limited was not available in the SAP data

**No policy and guidelines for unlisted equity transactions (except banking) prior to December 2011**

- 7.2.3 IPS 2001, 2002 and ITG 2007 do not provide any other guidelines specific to unlisted equity investments. IPS and ITG when amended in the year 2011 (approved by the MB in December 2011) provided specific guidelines for investments in unlisted shares.
- 7.2.4 The IPS 2001 and 2002 state that all the investment decisions of the EPF have to be approved by the IC or the MB. However, operational guidelines or procedures related to investment in unlisted shares prior to 2011 have not been explicitly mentioned in the IPS and ITG.

**Table 15: Investment in unlisted equity**

Name of the company	Sector	Year	Amount (LKR/million)	Investment approved by
West Coast Power (Pvt) Limited	Power generation	2007, 2008	2,975	Approved by MB
Sri Lankan Airlines Limited (SLA)	Aviation	2010	500	Ratified by MB
Sri Lankan Catering Limited (SLC) 15 % Preference Shares	Aviation Catering	2010	1,000	Approved by MB
Total			4,475	

Source: SAP data provided by EPF

**Policy and process for the period 1 January 2012 to 31 December 2017**

- 7.2.5 The process for investment in unlisted equity shares has been detailed out in IPS 2011 and ITG 2011. As per the IPS 2011 and ITG 2011, investment in unlisted shares is permitted wherein the Middle Office (MO) of the Fund Management Division had to conduct analysis based on the proposal received. Based on the analysis, the MO submits a report/presentation to the IC giving its recommendations. On IC's approval, the investment proposal is submitted to the Monetary Board by the Assistant Governor or Deputy Governor for approval.
- 7.2.6 Based on the guidelines in the IPS and ITG 2011, an attributes list was prepared by KPMG and a joint meeting with the former/current Superintendents was conducted on 5 July 2019 to obtain their feedback before finalizing the attributes for testing adherence of existing guidelines for investments in unlisted equity shares during the Review Period. On the basis of the approved attribute list, testing of investments in unlisted equity investments was performed and is set out in Section 10



## 8 EPF's investments in listed equity

### 8.1 Investment summary

8.1.1 Scope of work defined that the transactions above the threshold of LKR 10 million in a scrip per day (buy or sell) will be subject to investigations. SAP data was not available prior to September 2006 and hence the details provided by CSE were considered as base to arrive at the transaction list.

**Table 16: Summary of transactions above LKR 10 million**

EPF investments	Count of companies	Count of transactions <sup>62</sup>
Number of investee companies	114	17,168
Number of transactions above LKR 10 million	84	4,886
Source: CSE data from 1998 to 2006	27	242
Source: SAP data from September 2006 to December 2017	80	4,644
<i>Source: CSE data and the SAP data provided by the client and KPMG workings</i>		

8.1.2 4,886 transactions were tested for compliance with the applicable policy and guidelines during the relevant period and the count of companies as transactions is set out below.

**Table 17: Bifurcation of investments above LKR 10 million**

EPF investments	Count of companies	Count of total transactions <sup>1</sup>	Value (LKR million)	Transactions above 10 million	Value (LKR million)	Non-compliant transactions
Loss making transactions (including three <sup>2</sup> scrips named in PCOI report)	17	4,365	57,965.22	1,561	52,948.65	193
Two <sup>3</sup> non-loss making scrips in PCOI report	2	287	5,101.95	144	4,745.59	12
CBSL regulated entities	9	1,460	29,023.71	660	27,321.98	208
Other investments	56	10,968	58,673.89	2,520	46,163.08	386
<b>Total</b>	<b>84</b>	<b>17,080<sup>4</sup></b>	<b>150,764.77</b>	<b>4,886</b>	<b>131,179.30</b>	<b>799</b>
<i>Source: CSE data, SAP data provided by the client and KPMG's workings</i>						

<sup>62</sup> Transactions include purchase as well as sale transactions

<sup>1</sup> Transactions include purchase as well as sale transactions

<sup>2</sup> Ceylon Grain Elevators PLC, Galadari Hotels (Lanka) PLC and Brown and Company PLC

<sup>3</sup> Laugfs Gas PLC and Piramal Glass Ceylon PLC

<sup>4</sup> 88 transactions were accounting entries in SAP for impairment, opening balance as on 31 August 2006, name change entries and transfer from one ledger to another, hence excluded from the above count to avoid double counting.

**Identification of loss-making transactions**

8.1.3 Loss making transactions have been identified for the losses which have been incurred by EPF. The methodology agreed with FAMC was to evaluate those investment which have been impaired in the books of accounts or losses have realized.

8.1.4 **Impairment loss on investment** - Securities which have been impaired in the books of accounts of EPF (Identified from SAP records provided by EPF) have been considered for investigation. The losses booked<sup>63</sup> on the impairment of investments in the books of accounts were as follows:

**Table 18: Loss summary**

Name of the company (As per SAP)	Type of portfolio	Number of transactions above LKR 10 million	Amount of loss as per books of accounts (LKR/million)	Dividends received <sup>64</sup> in LKR million
Colombo Dockyard	Investment	41	(1,868.73)	322.79
Bukit Darah	Investment	104	(1,707.18)	32.78
Carson Cumberbatch PLC	Investment	210	(1,625.64)	51.96
Brown & Co PLC	Investment	110	(1,304.24)	31.45
Ceylon Grain Elevators	Investment	8	(651.91)	25.02
Galadari Hotels (Lanka) PLC	Investment	8	(620.62)	-
Ceylon Hotels Corporation PLC	Investment	3	(377.69)	-
Ceylon Guardian Investment PLC	Investment	26	(282.45)	38.73
Tal Lanka Hotels PLC	Investment	70	(225.10)	-
The Finance Company	Investment	1	(179.02)	--
Hayleys Fabric PLC	Investment	2	(138.79)	60.39
Eden Hotels Lanka PLC	Investment	25	(130.14)	3.41
Raigam Wayamba Saltern Ltd	Investment	20	(64.38)	15.71
Mackwood Energy PLC	Investment	1	(16.86)	0.70
Dialog Telekom	Investment	280	(5.75)	372.51
	<b>Total</b>	<b>909</b>	<b>(9,198.50)</b>	<b>955.45</b>

*Source: SAP data provided by the EPF*

8.1.5 **Realised loss on sale of investment** - EPF follows the weighted average method to calculate the profit and loss on each of the transaction. Profit and loss were calculated for a particular stock on the date of sale based on the number of units held before the sale transaction. As per the profit and loss calculation it was noted that losses were realised in the following stocks on their sale:

<sup>63</sup> EPF has impaired investments based on market value of the investment as on the date of impairment

<sup>64</sup> Dividends have been calculated based on entry in SAP. The dividend details are only available for the period 1 September 2006 to 31 December 2017.



**Table 19: Loss on sale**

Name of the security	Portfolio	Transactions above 10 million	Number of sale transactions resulting in losses <sup>65</sup>	Loss on sale <sup>66</sup> in LKR/million	Dividends received <sup>67</sup> in LKR million
John Keels Holding Limited	Trading	649	62	228.36	545.44
PC House PLC	Trading	3	1	42.80	-
<b>Total</b>		<b>652</b>	<b>63</b>	<b>271.16</b>	<b>545.44</b>

*Source: SAP data, CSE data and KPMG workings*

## 8.2 Non-compliances with applicable policies and guidelines

8.2.1 Transaction testing for policy compliance was conducted to evaluate adherence of the policy and set guidelines and the assessment was divided into the following two processes for execution of transactions:

### *Initial investment and addition to the Approved Share List (ASL)*

8.2.2 The MO performs analysis of the fundamentals of the company and recommends it to IC. Thereafter, IC approves the investment in the company, if appropriate, along with the quantity to be invested. EPF is also required to obtain the approval of the Monetary Board before the first investment. As per clause 2.2.2.2 of the revised IPS 2011, In special circumstances, EPF may purchase shares of a company which is not included in the ASL in consultation with the members of the IC and the Governor. The approval process was changed to consultation of the Governor<sup>68</sup> in the ITG 2011.

### *Subsequent transaction review*

8.2.3 For Investment portfolio - All transactions post addition of company in the ASL in the investment portfolio were required to be approved by the IC and ratified by the MB on a monthly basis. The transaction before being executed were required to be approved by the IC for the quantity to be bought/sold and the maximum/minimum price for the proposed purchase/sale as per the investment plan. The FO (FO) is required to execute the transaction within the price and quantity limit approved by the IC. Any deviations

<sup>65</sup> There were other transactions above 10 million in the following scrips however only the transactions sold at a loss in the trading portfolio were required to be considered.

<sup>66</sup> Loss on sale includes brokerage charges paid

<sup>67</sup> Dividends have been calculated based on entry in SAP. The dividend details are only available for the period 1 September 2006 to 31 December 2017.

<sup>68</sup> No mode of consultation with the Governor was defined in the policy

from the approved investment plan has been categorised as non-compliant transaction in the sections below.

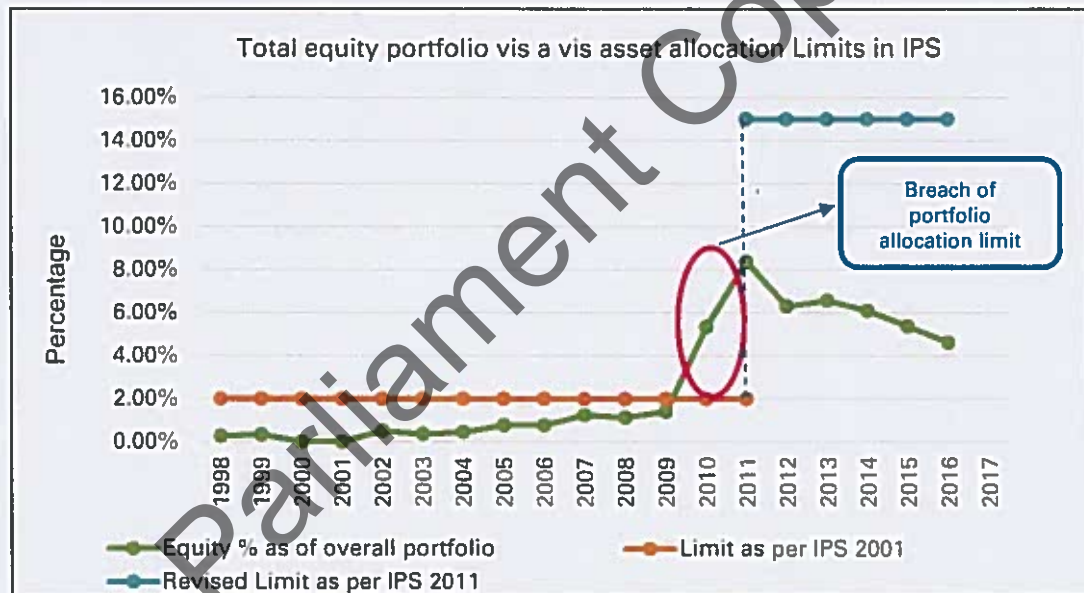
8.2.4 **For trading portfolio** - The transactions in the trading portfolio were to be executed by the FO within the approved limits mentioned in ITG and the Monetary Board papers from time to time. The transactions were to be ratified by the IC in the subsequent meeting.

**Overall portfolio level analysis and policy adherence**

8.2.5 **EPF could invest a maximum of 2 percent** of its portfolio in equity shares as per the IPS 2001. In IPS 2011 effective from 31 December 2011<sup>69</sup>, the said limit was increased to a minimum four percent and a maximum of 15 percent of the total portfolio.

8.2.6 An analysis of portfolios at the end of each year and the percentage of the listed /unlisted investments were compared vis-à-vis minimum/maximum allocation limits provided in the IPS and ITG. The comparative values are highlighted in the chart below:

**Chart 4: EPF equity portfolio vis-à-vis asset allocation limit in IPS**



8.2.7 **EPF had breached the limit for equity** investment having a maximum cap of two percent of the total portfolio in the year ending on 31 December 2010 and 31 December 2011. The limit was increased in December 2011 and was applicable from 31 December 2011. The following people were involved in the management of the EPF at the time mentioned above:

**Table 20: Tenure summary**

Name of the person	Designation	Tenure in EPF
Mr. K.G.D.D. Dheerasinghe	Deputy Governor	12 February 2010 to 14 June 2010
Mr. P.D.J. Fernando	Deputy Governor	15 June 2010 – 26 September 2011
Mr. B.D.W.A. Silva	Deputy Governor and	15 June 2010 – 26 September 2011 and

<sup>69</sup> The effective date of IPS was considered based on the date of Monetary Board approval.



Name of the person	Designation	Tenure in EPF
	Assistant Governor	27 September 2011 - 16 September 2012
Ms. J.P. Mampitiya	Assistant Governor	28 September 2011 - 31 December 2011
Ms. R. Dheerasinghe	Superintendent of EPF	21 June 2010 - 31 December 2011
Mr. M.J.S. Abeyasinghe	Superintendent of EPF	01 September 2009 - 20 June 2010
Ms. K. Gunatilleke	Additional Superintendent	03 July 2008 - 31 December 2011
Mr. L.D.D.Y. Perera	Deputy Superintendent Additional Superintendent	16 July 2008 - 12 June 2011 13 June 2011 - 03 November 2013

Source: Employee list provided by the HR department

**Breach of individual security limit of 10 percent of share capital of company**

8.2.8 IPS 2001 had prescribed that "investment in any company should not exceed five percent of the issued share capital of the company. However, EPF can invest in excess of five percent with the prior approval of the Investment Committee<sup>70</sup>". The main rationale for stipulation of the limit were:

- Not sufficient liquidity in the Market
- To avoid undue control of the Company by the Fund

8.2.9 The following instances were noted where EPF had invested more than five percent in a company prior to the limit being changed in 2007:

Table 21: EPF's exposure

Sr No	Name of Share	EPF's exposure % in the company
1	Sri Lanka Telecom	15.30%
2	John Keels Holding PLC	12.40%
3	National Development Bank PLC	11.70%
4	Hemas Holding PLC	9.40%
5	Dialog Telecom PLC	8.70%
6	Associated Motorways PLC	8.30%
7	Lanka IOC	6.50%

Source: Investment Committee meeting dated 8 September 2007

8.2.10 As per ITG 2007, the individual security limit of five percent for the investment portfolio was increased to 7.99 percent for the investment portfolio and two percent for the trading portfolio within the total equity portfolio. Further, ITG in 2011 revised the said limit to 10 percent. The following were the list of companies in which EPF had invested more than

<sup>70</sup> Point 7.3.6. of IPS 2001s



7.99/10 percent for the investment portfolio. The details of exposure in excess of the limit as on 31 December 2011 and 31 December 2017 are mentioned below:

**Table 22: Breach of investment portfolio limits**

Sr. No.	Name of Share	EPF's exposure % in the company 2011	EPF exposure % as on 31 December 2017
1	Laugfs Gas PLC Non-Voting Shares	31.80	34.69
2	Laugfs Gas PLC	17.30	17.28
3	Colombo Dockyard PLC	14.50	16.34
4	Durdans Non-Voting Shares	13.80	-
5	Galadari Hotels PLC	13.00	-
6	Diesel and Motor Engineering PLC	12.60	19.89
7	Ceylon Hotels Corporation PLC	11.40	11.95
8	Dipped Products PLC	11.30	12.76
9	CIC Holdings PLC Non-Voting Shares	10.60	12.70
10	Lighthouse Hotels PLC	10.00	11.05
11	Textured Jersey Lanka PLC	9.90	-
12	Hatton National Bank PLC	9.80	-
13	Sampath Bank PLC	9.60	-
14	Commercial Bank of Ceylon PLC	9.40	-
15	Seylan Bank PLC Non-voting shares	9.30	-
16	DFCC Bank PLC	9.00	-
17	Ahungalle Hotels	8.80	-
18	National Development Bank PLC	8.80	-
19	The Finance Company PLC	8.80	-
20	Ceylon Grain Elevators PLC	8.70	-
21	Kingsbury Hotel Corporation	8.60	10.56
22	Brown and Company PLC	8.40	-
23	Amaya Leisure PLC	8.30	-
24	John Keels Holdings PLC	8.30	-
25	Seylan Bank PLC	8.30	-
26	Lanka Tiles PLC	8.20	-

Source: Relevant IC minutes

- 8.2.11 Tracking mechanism for weekly/monthly threshold in each share is currently manual and EPF may consider deploying dashboards on the basis of information available in SAP for assisting in management decision making.

***Breach of trading limits***

- 8.2.12 Following instances of breaches were observed in terms of dealers trading limits since the concept of Trading portfolio was introduced:



**Table 23: Year-wise compliance violations in trading portfolio**

Year	Transactions above LKR 10 million (Trading portfolio)	Number of transactions where trading limits were breached	Number of transaction breaches where approval was not obtained from appropriate authority
2008	1	0	0
2009	60	10	9
2010	332	86	20
2011	98	15	0
2012	8	1	0
2013	27	9	2
2014	206	71	59
2015	60	12	12
2016	125	54	54
<b>Total</b>	<b>917</b>	<b>258</b>	<b>156</b>

*Source: CSE data, SAP data and KPMG's workings*

**Transaction level compliance violations**

8.2.13 Following were the overall transaction-level compliance violations in case of listed investments (Other than transactions in loss-making companies)

**Table 24: Transaction-level compliance violations**

Particulars	Count of companies	Count of transactions
Number of companies transacted (More than 10 million in a day)	84	4886
Transactions not in adherence with IC plan	39	277
Transactions not in IC Plan	49	513
Transactions not ratified in trading portfolio	7	9
<b>Total Non-compliant transactions</b>	<b>59<sup>71</sup></b>	<b>799</b>

*Source: CSE data and the SAP data provided by the client and KPMG workings*

**EPF employees as counterparties to EPF trades**

8.2.14 On review of the counterparty data received from Colombo Stock Exchange, following instances of EPF FMD employees<sup>72</sup> as counterparties to EPF trades were noted:

<sup>71</sup> Unique count of companies having non compliant transactions means there may be non compliant transactions in the same company in two categories.

<sup>72</sup> Based on search of names of EPF FMD employees in the counterparty details provided by Colombo Stock Exchange in respect of listed companies traded by EPF during the review period

**Table 25: Trade details**

Name of the employee	CBSL ID	EPF transaction Type	Date	Scrip	Total quantity traded by EPF on day	Quantity traded as counterparty by employee	Amount of investment (LKR)
Mr. B H I S Kumara	1856	Buy	26 August 2005	Nawaloka Hospitals Plc	2,300,000	5,000	20,000
Mr. B H I S Kumara		Buy	29 December 2005	Chevron Lubricants Lanka Plc	200	200	11,300
Mr. B H I S Kumara		Buy	14 October 2011	CT Holdings Plc	18,700	200	38,000
Mr. B H I S Kumara		Sell	11 September 2012	Pegasus Hotels of Ceylon PLC	121,400	21,399	1,027,152
Ms. B.M.W.S. Balasooriya	1850	Buy	3 May 2010	Raigam Wayamba Saltarns Plc	5,500,000	5,000	22,000
Ms. B.M.W.S. Balasooriya		Buy	3 November 2010	Piramal Glass Ceylon Plc	13,666,100	2,000	9,800
Ms. B.M.W.S. Balasooriya		Buy	24 February 2011	Laugfs Gas Plc	2,706,200	800	33,600
Mr. T. Udayaseelan	1822	Buy	12 March 2012	Brown and Company PLC	845	500	77,000
Mr. T. Udayaseelan		Buy	12 March 2012	Diesel & Motor Engineering Plc	8,000	204	212,160
Mr. T. Udayaseelan		Buy	23 November 2010	C I C Holdings Plc	541,000	500	47,500
Mr. T. Udayaseelan		Buy	23 November 2010	Aitken Spence Plc	100,000	500	92,450
Mr. T. Udayaseelan		Buy	23 November 2010	Asian Hotels and Properties Plc	46,500	500	95,000
Mr. T. Udayaseelan		Sell	7 December 2010	Piramal Glass Ceylon Plc	8,725,500	20000	160,000
Mr. T. Udayaseelan		Buy	24 February 2011	Laugfs Gas Plc	2,706,200	3700	155,400
Mr. T. Udayaseelan		Buy	2 September 2011	Textured Jersey Lanka Plc	2,999,200	1000	14,500
Mr. M S M. Husam		1858	Buy	16 December 2004	The Lanka Hospitals Corporation Plc	73,000	3,000
Mr. M S M. Husam	Buy		20 October 2005	Asiri Surgical Hospital Plc	305,300	10,000	35,000
Mr M S M. Husam	Buy		22 May 2014	Diesel & Motor Engineering Plc	150	70	36,050

Source: Data provided by CSE and EPF HR records

8.2.15 Analysis of counterparty data and presence of trades by EPF employees indicates that due to lack of appropriate mechanism to monitor conflicts of interest, employees of the FMD could have derived personal benefit by trading in their respective personal accounts,



while being privy to information of EPF trades. However, post implementation of IPS and ITG 2018, the members in the FMD cannot invest in stock markets.

- 8.2.16 Mr Saman Nanayakkara who joined EPF on 1 April 2011 as the head of Middle Office on 5 August 2019, informed that the management of EPF had decided to remove the specific statements of economic interests for EPF employees as there was no specific format or mechanism to submit and monitor the information.
- 8.2.17 Mr Nanayakkara explained that as per the requirement of being part of CBSL, all employees of EPF were already required to submit an annual asset and liability statement. Due to the lack of staff in FMD and to manage the increase in workload during that period, Mr Nanayakkara felt that it was extremely difficult to have such an additional and separate disclosure of economic interest procedure for EPF.
- 8.2.18 During a discussion with Mr. Nanayakkara<sup>73</sup>, he stated that -

*"Most of changes to IPS and ITG were done to reflect the fund management practices/ procedures/ strategies adopted by EPF at that time. He followed the instructions and directions of EPF management, had several discussions with relevant officers and used material/document relevant to the subject before finalizing; the draft revisions. Even though, he did not have exposure on the fund management or development of policy document, he used his knowledge and understanding in drafting revisions in addition to the guidance given by the management."*

***Investment in listed banking companies in contravention of policy***

- 8.2.19 EPF had invested in contravention to the prevalent policy the following listed banking companies prior to 2011:

**Table 26: Summary of investments made by EPF prior to 31 December 2011**

Sr. No	Bank name	Date of first investment <sup>74</sup>	Effective date of IPS and ITG 2011
1	National Development Bank	22 August 2006	31 December 2011
2	Seylan Bank PLC	25 September 2009 <sup>75</sup>	
3	Commercial Bank of Ceylon PLC	5 November 2009	
4	Hatton National Bank PLC	3 December 2009	
5	DFCC Bank PLC	18 December 2009	
6	Sampath Bank PLC	17 February 2010	
7	Lanka Orix Leasing Co PLC	13 October 2010	
8	The Finance Company PLC	27 May 2011	
9	Central Finance Companies PLC	25 May 2011	
10	Peoples' Leasing Company Ltd	22 November 2011	

Source: SAP data provided by EPF

<sup>73</sup> Refer exhibit 3.4 for minutes of the meeting.

<sup>74</sup> Date of investment as per the SAP data or the date of application to the IPO whichever is earlier is considered to be the date of first investment.

<sup>75</sup> EPF had subscribed for the public issue on 25 September 2009. However, Governor approved the subscription on 29 September 2009

## 9 Listed equity investments – non-compliant and loss-making transactions

### 9.1 Summary

#### *Transactions resulting into losses to EPF*

9.1.1 PCOI investigation report, Chapter 16 states, "there were allegations made in the public domain, that the EPF engaged in large scale transactions in Shares in Companies such as Piramal Glass Ceylon PLC, Galadari Hotels (Lanka) PLC, Laugfs Gas PLC, Ceylon Grain Elevators PLC, Brown and company PLC during this period and that some of these transactions raised the inference of "pumping and dumping" and "market manipulation". There were allegations that the EPF knowingly acquired shares which resulted in the EPF incurring substantial losses."

9.1.2 A scrip wise analysis was performed for all the 17 investments that led to losses. Two companies, highlighted in the PCOI report, did not have any losses booked by EPF department. However, the two PCOI highlighted entities have been covered in our analysis.

**Table 27: List of loss making and PCOI-named companies**

Sr No	Name of the company	Details of loss	Number of transactions above LKR 10 million	Amount of loss as per books of accounts (LKR/million) <sup>76</sup>	Dividends received <sup>77</sup> (LKR million)
<b>Companies named in PCOI report</b>					
1	Brown & Co PLC	Impairment loss	110	(1,304.24)	31.45
2	Ceylon Grain Elevators	Impairment loss	8	(651.91)	25.02
3	Galadari Hotels (Lanka) PLC	Impairment loss	8	(620.62)	-
4	Laugfs Gas PLC	No loss booked	95 <sup>78</sup>	-	662.72
5	Piramal Glass Ceylon PLC	No Loss booked	49	-	186.71
	Sub-total		270	(2576.77)	905.90
<b>Other companies</b>					
6	Colombo Dockyard	Impairment loss	41	(1,868.73)	322.79
7	Bukit Darah	Impairment loss	104	(1,707.18)	32.78
8	Carson Cumberbatch PLC	Impairment loss	210	(1,625.64)	51.96
9	Ceylon Hotels Corporation PLC	Impairment loss	3	(377.69)	-
10	Ceylon Guardian Investment PLC	Impairment loss	26	(282.45)	38.73

<sup>76</sup> Losses have been calculated as per the transactions recorded in SAP upto 31 December 2017

<sup>77</sup> Dividends have been calculated based on transactions in SAP. The dividend details are only available for the period 1 September 2006 to 31 December 2017.

<sup>78</sup> Includes 31 transactions related to non-voting shares and 64 transactions related to voting shares



Sr No	Name of the company	Details of loss	Number of transactions above LKR 10 million	Amount of loss as per books of accounts (LKR/million) <sup>79</sup>	Dividends received <sup>77</sup> (LKR million)
11	John Keels Holding Limited	Realised loss	649	(228.36)	545.44
12	Tal Lanka Hotels PLC	Impairment loss	70	(225.1)	-
13	The Finance Company	Impairment loss	1	(179.02)	-
14	Hayleys Fabric PLC	Impairment loss	2	(138.79)	60.39
15	Eden Hotels Lanka PLC	Impairment loss	25	(130.14)	3.41
16	Raigam Wayamba Saltern Ltd	Impairment loss	20	(64.38)	15.71
17	PC House PLC	Realised loss	3 <sup>79</sup>	(42.8)	-
18	Mackwood Energy PLC	Impairment loss	1	(16.86)	0.70
19	Dialog Telekom	Impairment loss	280	(5.75)	372.51
	Sub-total		1435	(6892.89)	1444.42
	Total		1705	(9469.66)	2350.32
Source: SAP data provided by EPF and PCOI report					

## 9.2 Analyses performed for EPF's investment in listed equity

### 9.2.1 Following analysis of EPF's investment in listed companies has been performed:

- Decision making analysis for 17 loss-making listed investments with a transaction value in excess of LKR 10 million in a day.. Additionally, investments in two listed companies, highlighted in the PCOI report, have been analysed. These 19 investments have been analysed from the perspective of identification of non-compliance with prevalent policy and process and the individuals responsible for the same to the extent evidence was made available.
- Scrutiny of available documentation for the 19 investments to understand the rationale for investments and analysis carried out to justify the rationale for these investment decisions.
- In case of loss-making investments, identification of brokers for EPF trades, major<sup>80</sup> counterparties to EPF trades (purchase and sale) and counterparty brokers from details provided by CSE. Comparison of prices at which purchase and sale trades were executed by EPF with the prevalent market prices.
- Identification of personnel responsible from available source documents for investment/divestment decisions, and review of adherence to the laid down policy and process.
- Public domain search and linkages, if any, between the counterparty, EPF authorities and investee companies. Analysis of details received from Registrar of Companies (ROC) for 49 companies<sup>81</sup>. List of 49 companies is attached as Annexure 20.

<sup>79</sup> Includes 2 transactions which were accounting entries for transfer of code in SAP.

<sup>80</sup> More than 10% of the transactions in a day of the overall volume

<sup>81</sup> Documents were requested for 60 companies, of which, details were made available for 49 companies.

- Interviews with the employees of EPF, identified based on documents available for review in relation to the transactions resulting in losses to the EPF.

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### 9.3 Brown & Company PLC

#### Background

9.3.1 Brown & Co. PLC (Brown) was established in 1892 and has business interests that span a wide range of industries. The company initiated its business as manufacturer and importer of farming and agriculture machinery and has grown into a well-diversified trading company. It was listed on CSE on 1 January 1970<sup>82</sup>.

#### EPF's investment in Brown

9.3.2 Brown was added in the ASL through an IC meeting dated 23 June 2011 in the investment portfolio and MB meeting dated 15 July 2011. EPF started purchasing shares in the investment portfolio of Brown in July 2011. Summary of EPF's transactions in Brown in the 'Trading' and 'Investment' portfolio during the Review Period is stated in the table below:

**Table 28: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	96	1.27	180.12	48	0.84	121.51
Investment	173	6.49	1707.62	-	-	-
<b>Total</b>	<b>269</b>	<b>7.76</b>	<b>1887.74</b>	<b>48</b>	<b>0.84</b>	<b>121.51</b>

Source: CSE and SAP data provided by EPF

9.3.3 Summary of all the transactions above LKR 10 million is set out below and the list of all transactions above LKR 10 million are set out in Annexure 21.

**Table 29: Transactions above LKR 10 million**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	16	0.33	72.59	13	0.39	62.51
Investment	81	5.63	1535.00	-	-	-
<b>Total</b>	<b>97</b>	<b>5.96</b>	<b>1607.59</b>	<b>13</b>	<b>0.39</b>	<b>62.51</b>

Source: CSE and SAP data provided by EPF

#### Losses incurred by EPF in Brown

9.3.4 EPF incurred a total impairment loss of LKR 1304.24 million in Brown. The years in which EPF recorded impairment loss in its books are shown in below table:

**Table 30: Impairment loss recorded by EPF in various years**

Year	Amount of impairment (in million)
2015	(1100.27)
2017	(203.97)
<b>Total</b>	<b>(1304.24)</b>

Source: SAP data provided by EPF

9.3.5 The impairment loss of LKR 1304.24 million was incurred by EPF on its investment portfolio. On review of the transaction pattern, it was observed that purchases in the investment portfolio were concentrated during 2011. Details of the transaction

<sup>82</sup> Source: Website of Colombo Stock Exchange ([www.cse.lk](http://www.cse.lk))

contributing to 43.19 percent of the purchases in the investment portfolio are mentioned below:

**Table 31: Concentration of transactions**

Date	Quantity (million)	Price per share (LKR)	Transaction value (LKR million)	% transaction value of EPF to market value (In the shares on that day)	Counterparty for the transaction	% transaction value to total purchases <sup>83</sup> during Review Period
27 July 2011	2.54	290.00	737.59	99.03%	Mr. S.H.M. Rishan	43.19%

*Source: CSE data and KPMG's working*

9.3.6 The above transaction was a crossing transaction executed by EPF through its broker Taprobane Securities (Pvt) Limited.

**Price and volume analysis**

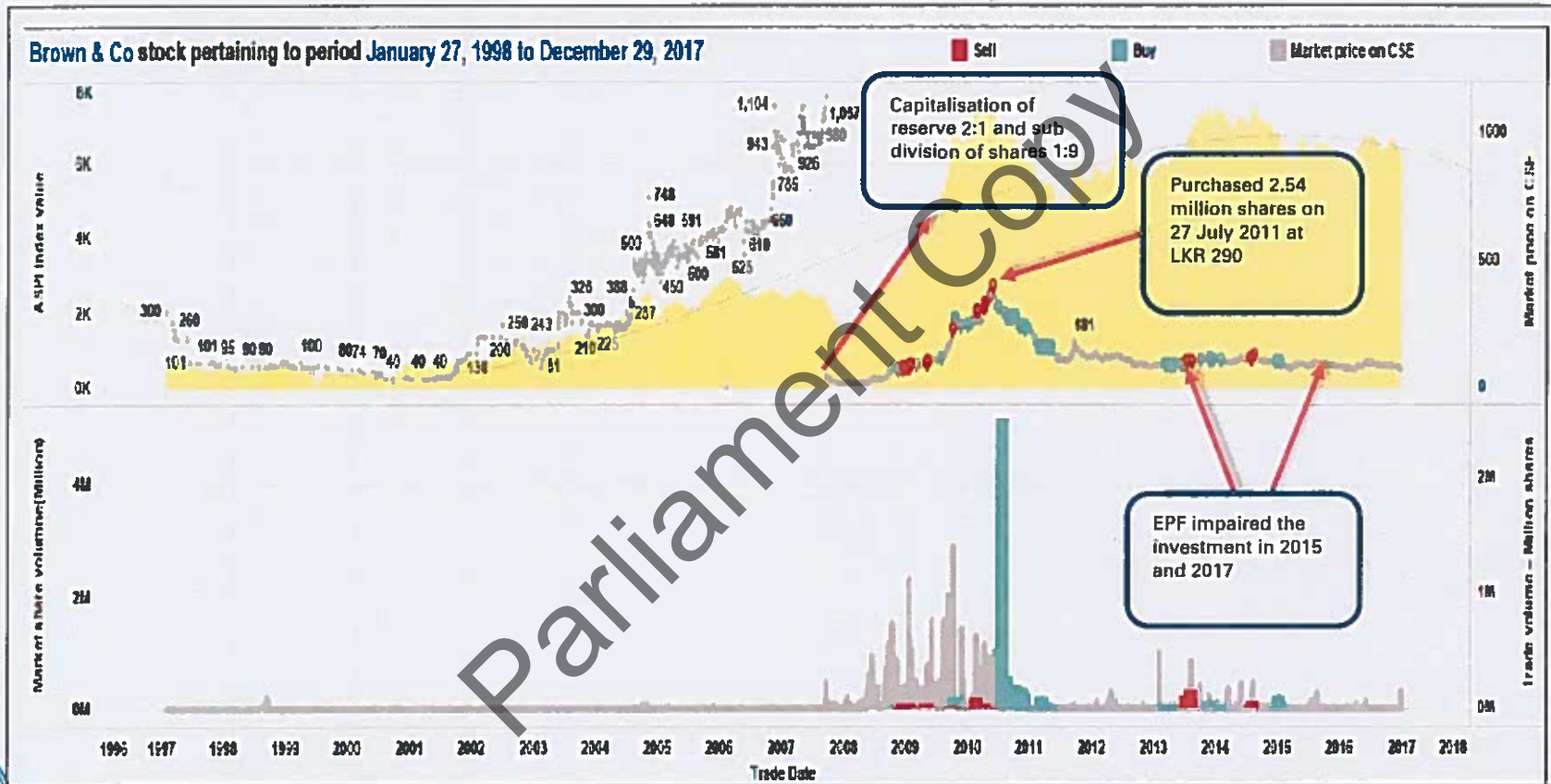
9.3.7 Analysis of price and volume data in the shares of Brown shows that 95% of the purchases by EPF in investment portfolio were during 2011, of which 43.19% was contributed by the initial investment on 27 July 2011. Set out below is price and volume chart for the shares during the period 27 January 1998 to 31 December 2017:

*(This space is intentionally left blank)*

<sup>83</sup> Total purchases made in the investment portfolio in case of impairment loss



Chart 5: Price movement in Brown & Company PLC during 27 January 1998 to 29 December 2017 along with details of EPF trades



9.3.8 From the above chart, the following was noted:

- A significant movement in the volume of the shares during 2009 and 2010, post which a drastic increase in price was observed from LKR 17.50 in April 2009 to LKR 399.00<sup>84</sup> in May 2011, post which EPF invested LKR 737.59 million in Brown on 27 July 2011 at a price of LKR 290.
- The movement in the price 30 days prior and after the transaction is given in the table below:

**Table 32: Market price movement 30 days prior and post the transaction**

Transaction Date	Period <sup>85</sup>	Date from	Date to	Minimum price (LKR)	Maximum price (LKR)	Average price <sup>86</sup> (LKR)
27 July 2011	- 30 days	13 June 2011	26 July 2011	275.00	350.00	311.86
	Price on 27 July 2011			280.00	294.00	287.00
	+30 days	28 July 2011	8 September 2011	254.00	298.00	276.93

*Source: Market data from CSE*

9.3.9 Analysis of price movement indicated that the price at which EPF executed the trade was higher by 1.05% than the average market price on the date of EPF trade. Transaction was not pre-approved by the IC in its weekly plan. No analysis of MO was available to determine the pricing for the purchase transaction.

**Counterparty analysis**

9.3.9.1 Analysis of the counterparties to the above transaction indicated that Mr. S.H.M Rishan was the counterparty for entire 2.54 million shares purchased by EPF through a crossing transaction.

**Table 33: Counterparty details**

Trade Date	Quantity (million)	Amount (million)	Name of the counterparty	EPF Broker name	Counterparty broker name
27 July 2011	2.54	737.59	Mr. S.H.M. Rishan <sup>87</sup>	Taprobane Securities (Pvt) Limited	1. Nation Lanka Equities (Pvt) Limited (58.92%) 2. JB Securities (Pvt) Limited (13.31%) 3. Candor Equities Limited (9.85%) 4. NDB Securities (Pvt) Limited (7.90%) 5. Taprobane Securities (Pvt) Limited (6.21%) 6. SMB Securities (Pvt) Limited (3.81%)

*Source: CSE data*

<sup>84</sup> LKR 399 per share was the highest close price during the period April 2009 to May 2011

<sup>85</sup> Price and quantity analysis is based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction

<sup>86</sup> Sum of end of day price of 30 trading days divided by 30

<sup>87</sup> The transactions were entered through seven different trading accounts of Mr. S.H.M. Rishan with banks. As per the explanation provided to KPMG by CSE, the shares would either have been pledged as collateral with the six banks or Mr. S.H.M. Rishan would be having a margin trading account with the banks.



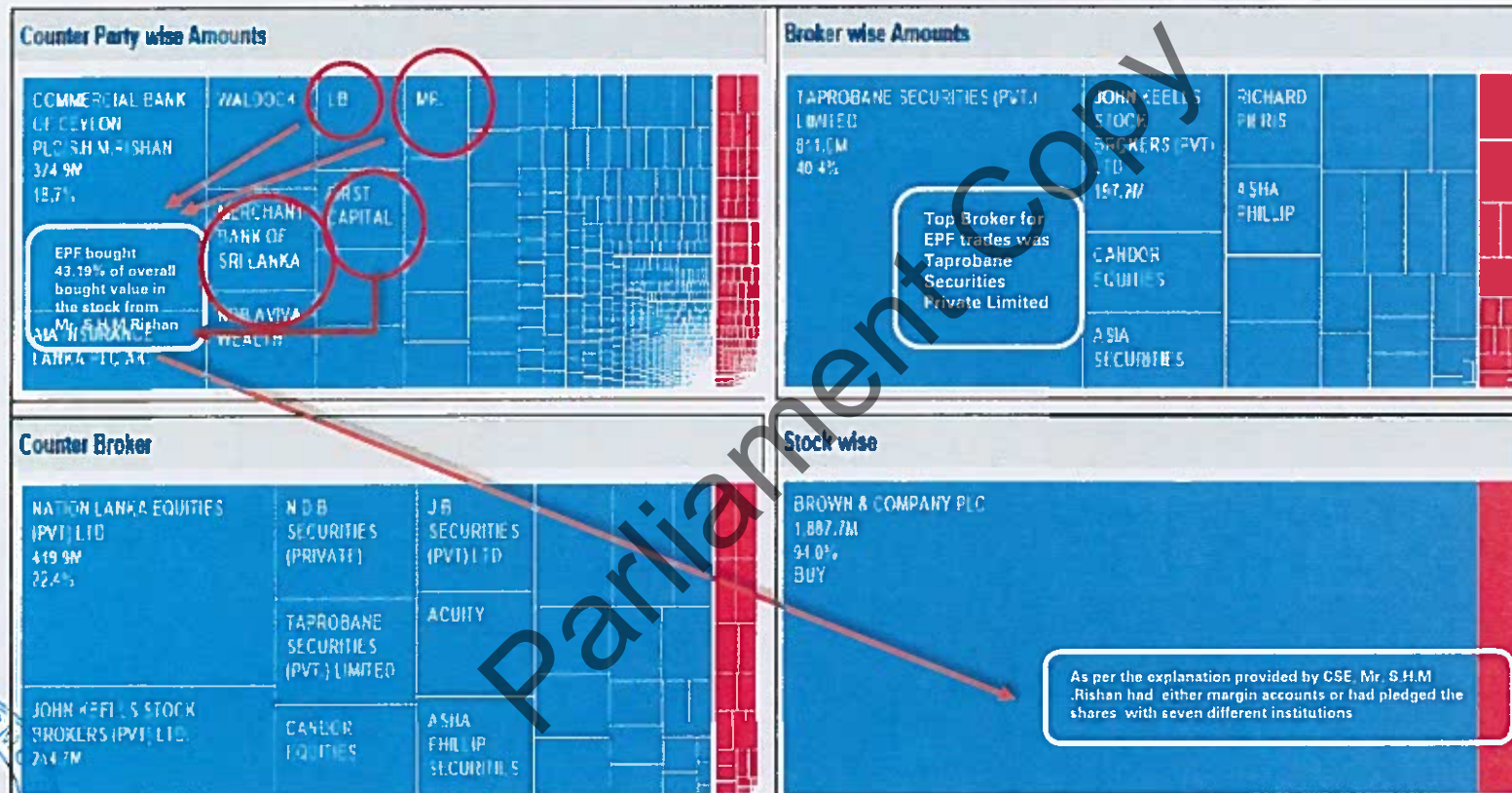
9.3.10 The concentration in the counterparty, counterparty broker and EPF broker in the transactions in Brown & Company is given in the chart below:

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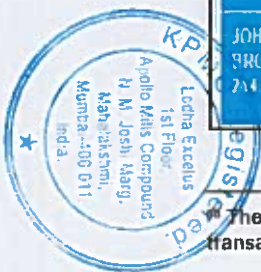
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Chart<sup>88</sup> 6: Details of concentration of counterparty, EPF broker and Counterparty broker in Brown & Company PLC



The blue area represents EPF's purchases and the red area represents EPF's sales. The size of the shaded area represents the value of the transaction in comparison to the total transaction value in the scrip during the Review Period.





- 9.3.11 Information published in the media indicated that Mr. S.H.M. Rishan was a high net worth individual and a promoter in PC House PLC, which was delisted on 19 July 2019 from the CSE<sup>89</sup>. No communication between EPF personnel and the broker could be identified, since emails and voice records for this time-period are unavailable. Some employees had indicated in the interviews that FO staff could be privy to the counterparty, as the broker may have informed about the same to the dealer.
- 9.3.12 ROC documents for Taprobane Securities Private Limited were reviewed and it was noted that Taprobane Securities Private Limited and Brown and Company PLC share common directors and shareholders. Refer Exhibit 10 for the extracts of ROC documents. During the year of investment, 2011<sup>90</sup>, the following directors and shareholders were common:

**Table 34: Common shareholders and directors in Taprobane Securities Private Limited and Brown & Company PLC**

Name	Taprobane Securities Private Limited		Brown	
	Director	Shareholder	Chairperson	Shareholder
Rohini Letitia Nanayakkara	✓		✓	
Ajith Devasurendra		✓		✓

*Source: ROC data and financials of Brown & Company PLC*

- 9.3.13 According to media articles, Mr. Ajith Devasurendra was said to have connections<sup>91</sup> with former Governor Mr. Ajith Nivard Cabraal. Mr. Ajith Devasurendra was alleged in a news article for being involved in pump and dump<sup>92</sup> scheme.

#### **Transaction Compliance**

##### **For addition of the company to ASL**

- 9.3.14 EPF started investing in Brown on 9 November 2009 in the Trading portfolio and in the investment portfolio on 27 July 2011. Following are the details of approvals obtained-

**Table 35: IC and MB approval for adding company to ASL**

Portfolio type	IC approval	MB approval	Governor approval
Trading	28 October 2009	17 November 2009	6 November 2009
Investment	23 June 2011	15 July 2011	-

*Source: IC minutes and MB papers*

- 9.3.14.1 At its meeting on 23 June 2011, IC approved inclusion of Brown in the ASL of investment portfolio of EPF, subject to approval of the MB. MB granted approval for inclusion in the

<sup>89</sup> CSE letter dated 19 July 2019 vide rule 4(2) of SEC under section 53 of the SEC Act 1987

<sup>90</sup> ROC document for annual return of Taprobane Securities Private Limited dated 14 October 2011.

<sup>91</sup> <http://www.sundaytimes.lk/150315/business-times/central-bank-governor-under-fire-139688.html> - this information could not be independently verified.

<sup>92</sup> <http://www.ft.com/article/219550/Ravi-K-rakes-up-insider-trading-at-CSE> - this information could not be independently verified.

ASL on 15 July 2011 citing significant past performance, expecting the same in future and current market value being below the intrinsic value. Recommendation of MO and analysis was provided to the IC for including Brown in the ASL.

**For subsequent transactions in the Investment portfolio**

9.3.15 EPF transactions in Investment portfolio above LKR 10 million (110 transactions) were reviewed for adherence to prevalent IPS and ITG. Below mentioned table summarises the transaction not compliant to the laid down policies for all purchase transactions in Investment portfolio above LKR 10 million:

**Table 36: Non-compliant transactions**

Criteria	Count	Value (LKR million)	% of total
Transaction not pre-approved by the IC	1	737.59	44.16%
<i>Source: Documents provided by EPF and KPMG's workings</i>			

9.3.16 Set out below is the summary of trades executed by EPF in Brown during the Review Period, deviations noted in the transactions as against the prevalent IPS and ITS and the personnel executing the transactions.

**Table 37: Summary of trades, policy deviations and EPF personnel**

Trade date	Buy		Deviation, if any	Personnel
	Quantity (million)	LKR/ million		
27 July 2011	2.54	737.59	Transactions not pre-approved by the IC	Names identified in the settlement sheet, order placement sheet and trading approval form- 1. Mr. W.G.R Harshapriya 2. Ms. B.M.W.S Balasooriya 3. Ms. Rupa Dheerasinghe – Superintendent 4. Mr. L.D.D.Y. Perera – Additional Superintendent
<i>Source: Deal ticket, settlement sheet, order placement sheet and trading approval form</i>				

9.3.17 Transaction execution documents, such as order placement sheets, share trading approval forms, deal tickets and settlement sheets were reviewed for the transaction on 27 July 2011. Dealer name was not mentioned on the deal ticket, as a result, the names



of the persons executing the transaction could not be identified. Refer Exhibit 4 for deal ticket.

**Interview evidence<sup>93</sup>**

9.3.18 KPMG conducted interviews with the employees existing at the time of investment and the following was noted:

**Table 38: Relevant extracts of interviews with EPF employees**

Name of the person	Role in the Transaction/in EPF	Explanation provided
Mr. P.D.J. Fernando	Deputy Governor	<p>...."the decision to invest in any scrip is a collective decision taken by Investment Committee and there could be investments made with a long-term view. He however does not exactly recollect the discussions taken by the IC specifically for investment made in Brown Company in July 2011. He also informed that he was not aware of connections of their investment advisors with the counterparties"</p> <p>...."had expressed his dissent to the S/EPF and other members of the Investment Committee regarding the execution of investments of high value equities taken prior to IC approval and subsequently brought to ratification unless there is very compelling reason to do so. This was to discourage the practice completely" ....."it was the responsibility of the head of EPF department and the relevant hierarchy to notify the Deputy Governor regarding all transactions prior to execution."</p>
Ms. R. Dheerasinghe	Superintendent	...."does not remember the events that transpired"
Mr. L.D.D.Y. Perera	Additional Superintendent	...."there were certain instances where counterparties were known, and brokers would reveal the counterparties."
Mr. Harshapriya W.G.R	Assistant Superintendent	<p>KPMG questioned regarding cases where there were no signatures on certain deal tickets including an instance where the deal ticket for executing a specific transaction in Brown and Co was not signed.</p> <p>... "the Back Office should have taken up the matter with the FO prior to settlement."</p>
<b>Source: Interview with the employee</b>		

<sup>93</sup> Interviews notes with (current and former) employees were prepared by KPMG, then reviewed and signed by the respective employees. In few cases, written responses were provided by employees for interview questionnaire sent to them (All interview notes have been set out in Exhibit 3.1 to 3.28)

## 9.4 Ceylon Grain Elevators PLC

### Background

9.4.1 Ceylon Grain Elevators PLC (CGE) was incorporated in 1982. The company forms part of the Prima group of companies producing animal feeds (Poultry, Cattle, Fish, etc.) and chicken to the local and export market. It was listed on CSE on 27 January 1992.

### EPF's investment in CGE

9.4.2 EPF started investing in Ceylon Grain Elevators PLC in 1998. Post approval from MB on 7 April 1998, the first investment in CGE was executed on 24 April 1998. Summary of EPF's transactions in CGE in the 'Trading' and 'Investment' portfolio during the Review Period are set out in the table below.

**Table 39: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	5	0.12	15.76	4	0.12	18.08
Investment	66	6.98	1035.39	22	1.63	39.44
<b>Total</b>	<b>71</b>	<b>7.10</b>	<b>1051.15</b>	<b>26</b>	<b>1.75</b>	<b>57.52</b>

Source: CSE and SAP data provided by EPF

9.4.3 Summary of all the transactions above LKR 10 million is set out below and the list of all transactions above LKR 10 million are set out in Annexure 22.

**Table 40: Transactions above LKR 10 million**

Portfolio	Buy			Sell		
	Transactions	Quantity (million)	LKR (million)	Transactions	Quantity (million)	LKR (million)
Trading	3	0.08	12.53	2	0.04	6.83
Investment	2	5.00	965.00	1	0.50	11.13
<b>Total</b>	<b>5</b>	<b>5.08</b>	<b>977.53</b>	<b>3</b>	<b>0.54</b>	<b>17.96</b>

Source: CSE and SAP data provided by EPF

### Losses incurred by EPF in CGE

9.4.4 EPF incurred a total impairment loss of LKR 651.91 million in CGE. The years in which EPF recorded impairment loss in its books are shown in below table.

**Table 41: Impairment loss recorded by EPF**

Year	Amount of impairment (LKR /million)
2015	(515.47)
2017	(136.44)
<b>Total</b>	<b>(651.91)</b>

Source: SAP data provided by EPF





- 9.4.5 Loss of LKR 651.91 million was incurred by EPF in its Investment portfolio. Total loss of LKR 651.91 million, could be attributed to the following two purchase transactions carried out by EPF in the Investment portfolio:

**Table 42: Concentration of transactions**

Date	Purchase quantity (million)	Price (LKR)	Transaction value (LKR million)	% Transaction value of EPF to market value (In the shares on that day)	Type of transaction	% Transaction value to total purchases during Review Period
4 March 2011	3.50	205	717.50	83.42%	Crossing	71.81%
15 March 2011	1.50	165	247.50	87.45%	Crossing	24.77%
<b>Total</b>	<b>5.00</b>		<b>965.00</b>			<b>96.58%</b>

Source: CSE data and KPMG's workings

- 9.4.6 The value of purchase on these two days (LKR 965 million) comprised 91.80% of total purchase value (LKR 1051.15 million) for CGE during the entire Review Period i.e. between 1 January 1998 and 31 December 2017.

**Price and volume analysis**

- 9.4.7 Analysis of price and volume data in the shares of CGE indicated that the purchases of EPF above LKR 10 million in the Investment portfolio<sup>94</sup> were concentrated during the year 2011. Set out below is price and volume chart for the shares, along with overall trend of ASPI, during the period 1 January 1998 to 31 December 2017:

(This space is intentionally left blank)

<sup>94</sup> No losses were observed in the Trading portfolio of EPF for the stock of CGE







9.4.8 From the above chart the following was noted:

- A significant rise in price and volumes was observed in CGE during the period 1 January 2011 and 15 March 2011, the price being in the range of LKR 93.50 and LKR 265 and volumes in the range of 27,300 and 4.20 million shares. The rise in percentage terms during this period 31 December 2010<sup>95</sup> to 3 February 2011 for CGE scrip was 242.67%, as against the rise in the ASPI index of 10.71 %. PCOI report raised the inference of "pumping and dumping"<sup>96</sup> and typically in such schemes, the price chart map may appear as an inverted U or V.
- Scrip touched a high of LKR 265 on 3 February 2011, EPF purchased 3.50 million shares at a price of LKR 205 on 4 March 2011 and 1.50 million shares at a price of LKR 165 on 15 March 2011.
- The movement in the price 30 days prior and after the transaction is given in the table below:

**Table 43: Market price movement 30 days prior and post the transaction**

Transaction Date	Period	Date from	Date to	Minimum Price (LKR)	Maximum Price (LKR)	Average Price (LKR)
4 March 2011	-30 days	13 January 2011	3 March 2011	120.00	265.00	197.12
	Price on 4 March 2011			198.00	211.00	204.5
	+30 days	7 March 2011	20 April 2011	163.00	202.50	175.05
15 March 2011	-30 days	26 January 2011	14 March 2011	166.10	265.00	208.94
	Price on 15 March 2011			163.00	178.00	170.50
	+30 days	16 March 2011	3 May 2011	142.00	198.00	168.82

Source: Market data from CSE

9.4.9 Though in the case of a pump and dump scheme, the price rise and fall happens over a period and one day price is not material, the price movement on the days on which EPF executed the trade has been given below:

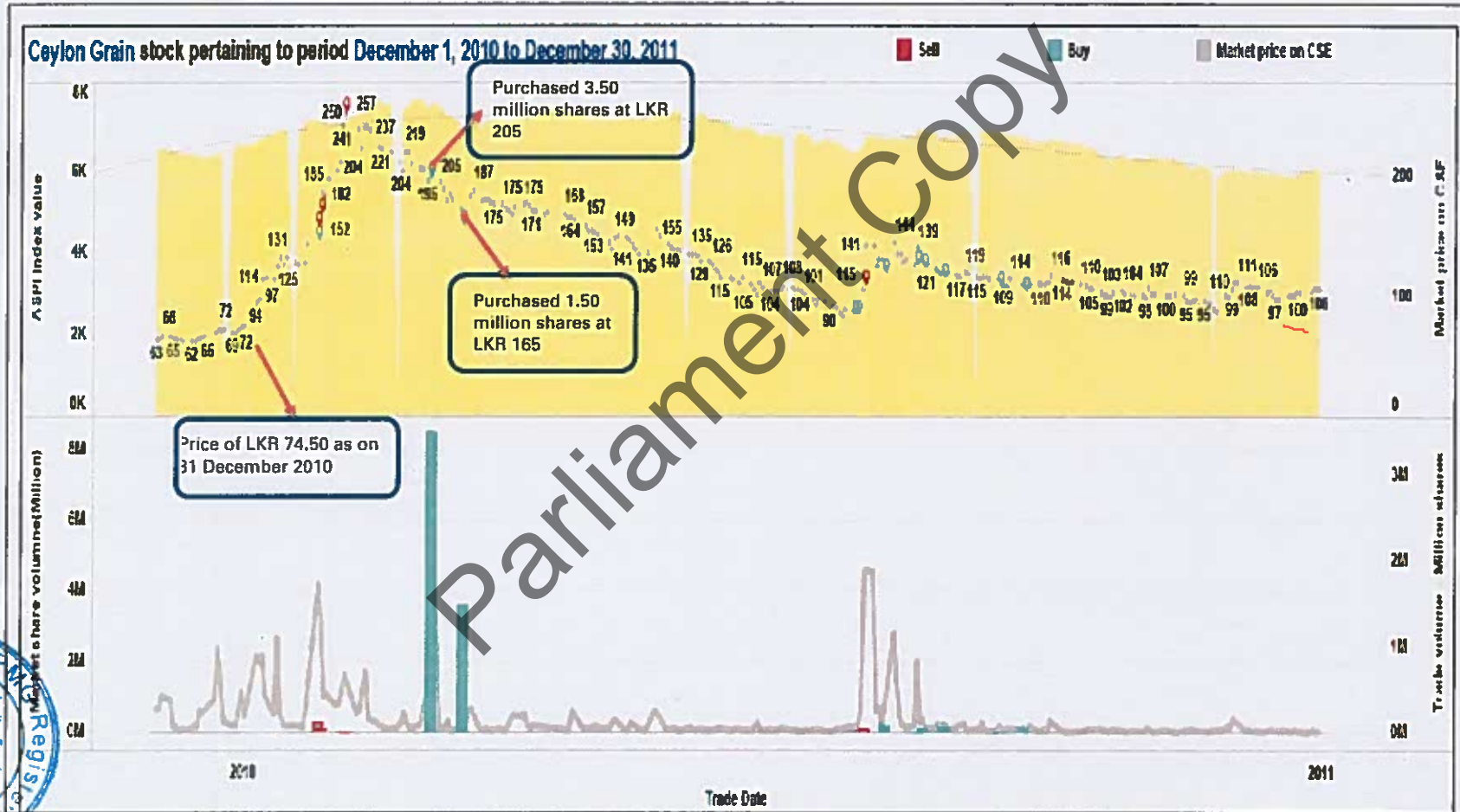
- higher by 0.24% than the average market price on 4 March 2011
- lower by 3.33% than the average market price on 15 March 2011

9.4.10 MO analysis for price determination was not available, as this transaction was not pre-approved by the IC. The price of the shares and EPF trades between 1 December 2010 and 30 December 2011 (above LKR 10 million) are depicted in the chart below:

<sup>95</sup> Closing price of LKR 75

<sup>96</sup> A "Pump and dump" scam is the illegal act of an investor or group of investors promoting a stock they hold and selling once the stock price has risen following the surge in interest as a result of the endorsement (Source: <https://www.investopedia.com/ask/answers/05/061205.asp>)

Chart 8: Price movement during the period 01 December 2010 to 30 December 2011





**Counterparty analysis**

9.4.11

Analysis of the counterparties for the above transactions shows that out of 5 million shares purchased by EPF (3.50 million on 4 March 2011 and 1.50 million on 15 March 2011), Perpetual Capital (Private) Limited (PCPL) was the seller for 95% (4.75 million) of the quantity purchased by EPF. The other counterparty to the purchase by EPF on 15 March 2011 was Lanka Orix Leasing Company Limited (0.25 million shares). Details of the counterparties and brokers for these transactions are as follows:

**Table 44: Counterparty details**

Trade Date	Quantity (million)	Amount in LKR million	Name of the counterparty	EPF Broker	Counterparty broker
4 March 2011	3.50	717.50	Perpetual Capital (Private) Limited	Nation Lanka Equities Private Limited	Nation Lanka Equities Private Limited
15 March 2011	1.25	206.25	Perpetual Capital (Private) Limited	Nation Lanka Equities Private Limited	Taprobane Securities Private Limited
15 March 2011	0.25	41.25	Lanka Orix Leasing Company Limited	Nation Lanka Equities Private Limited	Taprobane Securities Private Limited
Total	5.00	965.00			

Source: CSE data

9.4.12

Out of the total purchases of 5 million shares, EPF bought 4.75 million shares from PCPL.

9.4.13

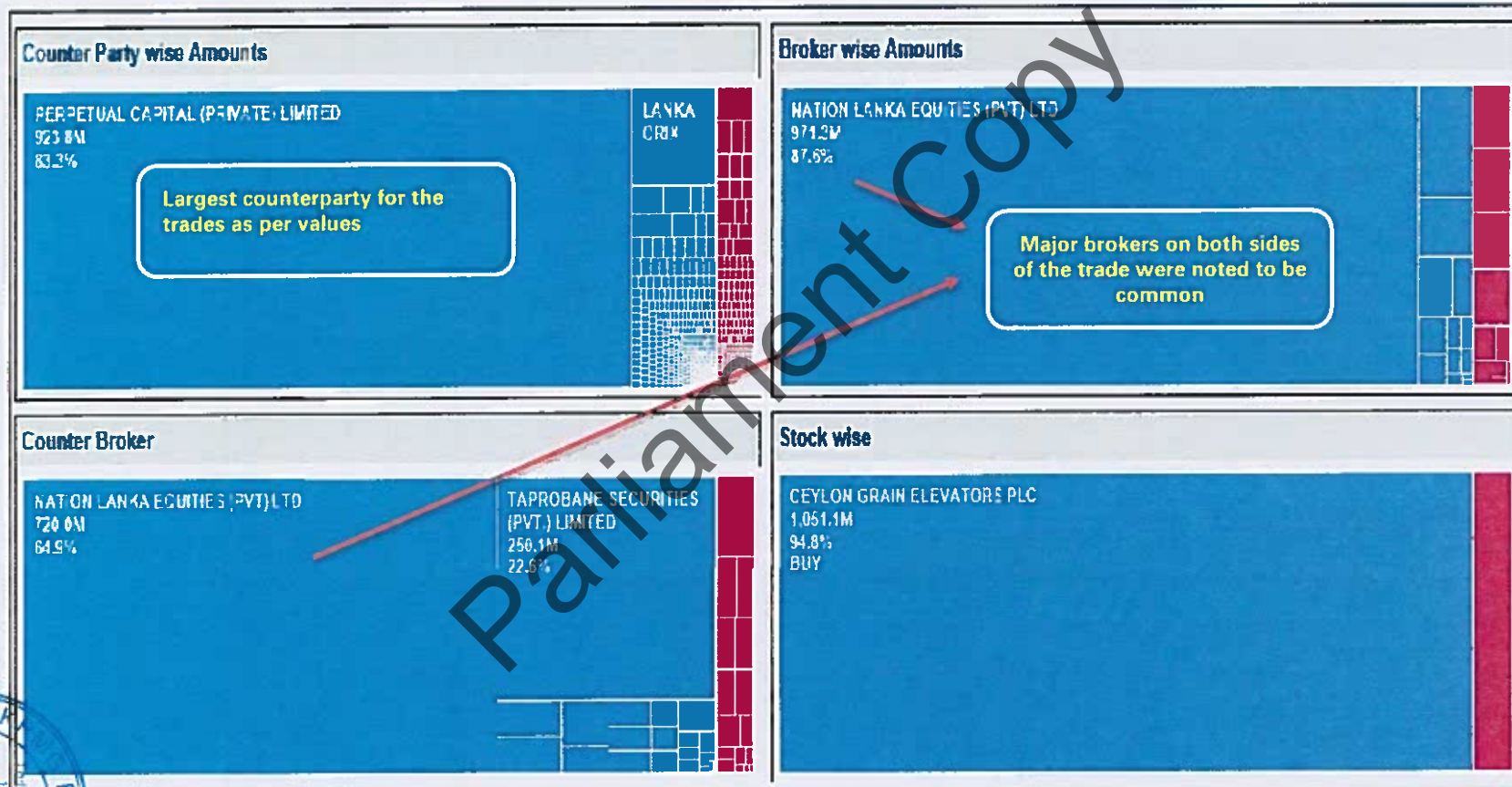
The concentration in the counterparty, counterparty broker and EPF broker in the transactions in CGE is given in the chart below:

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Chart 9: Details of concentration of counterparty, EPF broker and Counterparty broker in Ceylon Grain Elevators PLC





9.4.14 No communication between EPF personnel and the broker could be identified, since email and voice records for this time-period are unavailable. Nation Lanka Equities Pvt Ltd has brokered majority of the deal and would be aware of the buyer and seller of the transactions. Mr. P.D.J. Fernando, Deputy Governor of EPF, had indicated during the interviews that the management, including the FO staff in the EPF might have known the counterparty. However, in the interview, Mr. M.S.M. Husam stated that he did not recollect the transaction details. (refer section "Interview Evidence").

9.4.15 The Registrar of Company (ROC) documents were reviewed for PCPL and following were the directors and shareholders of PCPL as on 31 March 2016<sup>97</sup> (Refer Exhibit 11):

**Table 45: Directorship and shareholding of PCPL**

Name	Date of appointment as director	Effective date of shareholding	% holding
Mr Geoffrey Joseph Aloysius	27 July 2009	27 July 2009	50%
Mr Arjun Joseph Aloysius	27 July 2009	27 July 2009	50%
Ms Siromi Noel Wickremesinghe	23 December 2013 <sup>98</sup>	Not a shareholder	NA

Source: PCOI report and ROC documents

9.4.16 As per the PCOI report, following linkages were identified between the directors of the PCPL and the Ex-Governors of CBSL.

- Mr Arjun Joseph Aloysius is the son in law of the Ex-Governor Mr. Arjuna Mahendran.
- Ms Siromi Noel Wickremesinghe, sister of the Ex-Governor Mr. Ajith Nivard Cabraal was appointed as the director of PCPL "on or about" 23 December 2013. Refer Exhibit 12.

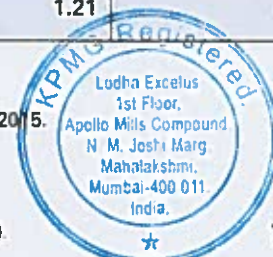
9.4.17 Shareholding analysis basis information available in the annual reports for the years 2009, 2010 and 2011 was performed and summarized as below.

**Table 46: Number of shares (in million) pre and post the EPF transaction**

Name of the entity	Number of shares as on 31 December 2009 (million)	Number of shares as on 31 December 2010 (million)	Number of shares as on 31 December 2011 (million)
Prima Limited, Singapore	27.27	27.27	27.27
Japfa Comfeed, International PTE Ltd	6.05	6.05	6.05
Employees Provident Fund	-	-	5.20
Supra Limited	5.18	5.18	5.18
Eka Limited	2.27	2.27	2.27
Perpetual Capital Private Limited (PCPL)	-	2.13	0.14
Perpetual Asset Management Private Limited (PAMPL)	-	1.21	-

<sup>97</sup> Records after 2016 were not readily available

<sup>98</sup> Ms. Siromi Wickremesinghe resigned from the post of director on 4 December 2015.



Name of the entity	Number of shares as on 31 December 2009 (million)	Number of shares as on 31 December 2010 (million)	Number of shares as on 31 December 2011 (million)
Aviva NDB Insurance PLC	-	1.00	-
Wadlock Mackenzie Ltd	0.21	0.83	0.21
Others	19.02	14.06	13.68
<b>Total number of shares as per the annual reports<sup>99</sup></b>	<b>60.00</b>	<b>60.00</b>	<b>60.00</b>

*Source: Annual Reports of Ceylon Grain Elevators*

9.4.17.1 From the above table, the following changes in the shareholding are observed:

- PCPL held 2.13 million shares of CGE as on 31 December 2010 and these shares were purchased during the year 2010. PCPL was not a shareholder of CGE as on 31 December 2009. The price at which PCPL purchased shares of CGE is not available.
- PAMPL also purchased 1.21 million shares of CGE in 2010 as it had no shares on 31 December 2010. Further, ROC documents show that PAMPL shared common directors<sup>100</sup> and shareholders with PCPL.
- PAMPL is not in the list of top 20 shareholders, as on 31 December 2011. Hence it appears that PAMPL may have sold the shares during the period 1 January 2011 to 4 March 2011. However, there were no transactions noted between EPF and PAMPL in CGE. Transactions of market participants other than EPF trades were not available for investigation.

9.4.17.2 Comparison of market price during the year 2010

- As noted above, PCPL and PAMPL purchased shares in 2010. As per the market data available on the CSE website, the highest price of CGE in 2010 was LKR 75.50 and the weighted average<sup>101</sup> price during the period was LKR 42.43.
- Details of trades executed in the market for CGE other than EPF trades were not available. Hence, based on the information available, potential profit on sale of CGE stocks by PCPL to EPF can be estimated below (but will require further data to be quantified completely and accurately).

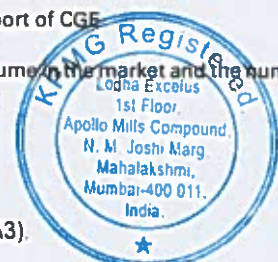
**Table 47: Calculation<sup>102</sup> of potential profit earned by PCPL**

<sup>99</sup> The equity share capital was a total of 60 million shares as per the annual report of CGE

<sup>100</sup> Mr. Geoffrey Joseph Aloysius and Mr. Arjun Joseph Aloysius

<sup>101</sup> The weighted average price of the share was calculated based on the total volume in the market and the number of shares traded

<sup>102</sup> Details of the calculation have been attached as Annexure 23





Particulars	Formula	Quantity (million)	Share price (LKR) and Amount (LKR million)
Shares held by PCPL as on 31 December 2010	A	2.13	-
Shares held by PCPL on 31 December 2011	B	0.14	-
Shares sold by PCPL from the balance as on 31 December 2010	C= A-B	1.99	-
High price during the period 1 January 2010 to 31 December 2010 <sup>103</sup>	D		LKR 75.50
Weighted average price period 1 January 2010 to 31 December 2010 <sup>104</sup>	E		LKR 42.43
Weighted average price of purchase by EPF from PCPL	F		LKR 194.47
Potential profit earned by PCPL on the transaction based on High price	G = (F - D) *C		LKR 236.75 million
Potential profit earned by PCPL on the transaction based on weighted average price	H = (F - E) *C		LKR 302.56 million
<i>Source: Information available on CSE website and KPMG's workings</i>			

9.4.17.3 PCPL purchased 2.76 million shares of CGE during the period 1 January 2011 to 4 March 2011 and sold it to EPF at weighted average price of LKR 194.47. PCPL's purchase price for CGE during this period is not available. Hence, the potential profit/loss cannot be estimated. As the market data regarding all purchase and sale of CGE shares is unavailable, it is not possible to assess, at this stage, if any market participants indulged in manipulation (e.g. circular trading) to hike up share price. This aspect should be investigated further by the appropriate authority who may be able to obtain this data.

9.4.17.4 The other counterparty for the EPF trade of 0.25 million shares was Lanka Orix Leasing Company Limited (LOLC). From the information available in the public domain, it was noted that LOLC is a Non-Banking Financial Institution (NBFI) offering non-banking financial services, such as leasing, lending, micro and SME lending, savings and deposits, tailor-made financial products for the SME sector, Factoring, Alternate Finance, Stockbroking and Insurance.

#### **Transaction compliance**

##### **For addition of the company to ASL**

9.4.18 EPF started investing in CGE on 24 April 1998. EPF had obtained approval from MB on 7 April 1998. The company was added to the ASL on 7 April 1998.

##### **Subsequent transaction review**

<sup>103</sup> CSE market data

<sup>104</sup> CSE market data



9.4.19 EPF's transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG. The following non-compliances to the laid policy and procedures were noted:

- Two transactions on 4 March 2011 and 15 March 2011 amounting to investment of LKR 965 million were not in IC weekly plan and subsequently ratified. These trades were executed with counterparty PCPL and have led to the potential loss to EPF.
- The above two transactions increased the EPF holding of 8.69% share capital of CGE, which was in breach of limit of 7.99% holding in a scrip, as per the ITG 2007.

9.4.20 The Investment Committee on 25 January 2011 instructed the middle office to further study the poultry industry and informed the MO to purchase shares in the investment portfolio after necessary approvals. However, no evidence of further study for the poultry sector was available in the documents provided for review. Also, no prior approval of the IC was obtained for executing the transactions.

9.4.21 Given below is the summary of trades executed by EPF in CGE during the Review Period, deviations noted in the transactions as against the prevalent IPS and ITG and the personnel executing the transactions.

**Table 48: Summary of trades, policy deviations and EPF personnel**

Date	Buy		Sell		Deviation, if any	Personnel
	Quantity	LKR/ million	Quantity	LKR/ million		
2 August 2005	-	-	500,000	11.25	No	Transactions were compliant
25 January 2011 (Four transactions)	82,500	12.52	41,900	6.84	No	
4 March 2011	3,500,000	717.50	-	-	Yes	1. Mr. M.S.M. Husam – Dealer 2. Mr. L.D.D.Y. Perera – Additional S/EPF 3. Ms. R. Dheerasinghe – Superintendent
15 March 2011	1,500,000	247.50	-	-	Yes	

*Source: Deal tickets and order placement sheets*

### Interview Evidence

9.4.22 KPMG conducted interviews with the personnel involved in the transaction, as mentioned above and the following was noted:

**Table 49: Relevant extracts of interviews with EPF employees**

Name of the person	Role in the Transaction	Explanation provided
Mr. P. D. J. Fernando	Deputy Governor	... "had minuted <sup>105</sup> to S/EPF and the head of the investment advisors that there should not be any interactions with the

<sup>105</sup> Copy of the minutes to the S/EPF as mentioned by Mr. P.D.J. Fernando were not available in the documents provided for review



Name of the person	Role in the Transaction	Explanation provided
		<p>Governor regarding investments to be undertaken of which the IC would not have been aware of.”</p> <p>...“EPF was forewarned that investments should be presented to the IC prior to executing instead of bringing it up for ratification after execution.”</p> <p>...“would never (approve) the investment in Ceylon Grain Elevators, due to its prevalent high price.”</p> <p>....“had expressed his dissent to the S/EPF and other members of the Investment Committee regarding the execution of investments of high value equities taken prior to IC approval and subsequently brought to ratification unless there is very compelling reason to do so. This was to discourage the practice completely” .....“it was the responsibility of the head of EPF department and the relevant hierarchy to notify the Deputy Governor regarding all transactions prior to execution.”</p>
Mr. B.D.W.A. Silva	Assistant Governor	<p>....“ does not remember the details but remembers that the governor had presented his views to EPF to look at the positive aspects of Ceylon Grain Elevators which was involved in the poultry sector which would flourish”.</p> <p>....“S/EPF had met the governor and where he has advised to examine the prospects of the company and he asked to look at the broader perspective. But the overall market did not perform well and also the company did not perform as expected”</p>
Mr. M. S. M. Husam	Dealer executing the transaction	<p>“he did not remember the events and the superintendent at that time could have asked him to execute the transactions”</p> <p>....“ was intimidated<sup>106</sup> to him and the investments would be subsequently ratified by the IC”.</p>
Mr. L. D. D. Y. Perera	Additional superintendent	<p>“this investment was a management decision”.</p> <p>..“could be a document<sup>107</sup> wherein the instructions must have been recorded in the document basis which the investment was done but does not remember the events that transpired”.</p> <p>“superintendent at that time would know the instructions received by the top management”</p> <p>“top management”.... “would mean the Governor and the Deputy Governor”</p>
Ms. R. Dheerasinghe	Superintendent	<p>“did not know the counterparty of the transaction in Ceylon Grain Elevators. The Investment in Ceylon Grain</p>

<sup>106</sup> He did not provide names of personnel who intimidated him

<sup>107</sup> No document was available to corroborate this statement



Name of the person	Role in the Transaction	Explanation provided
		<p><i>was not approved by the IC.<sup>108</sup> She went along with an officer of the MO and spoke to the Governor. The Governor explained and convinced that this is a viable project considering prospects and poultry sector was flourishing."</i></p> <p><i>.....did not instruct any one to invest directly in her own capacity. However, there were certain instances where the governor would explain the investment considering long term benefits and subsequently the investments were made and ratified in the subsequent IC minutes"</i></p>
Mr. W.G.R. Harshapriya	Assistant Superintendent	<p><i>....."the Governor/Deputy Governor/Assistant Governor would have instructed the S/EPF and S/EPF would have asked Mr. Husam to execute the transaction"</i></p> <p><i>....."after the first transaction in Ceylon Grain Elevators, Mr. Perera had asked for approval to Governor for the transaction and had documented which according to him could have gone missing".</i></p> <p><i>....." Mr. Perera had minuted <sup>109</sup>the directions describing "as per instructions of the top management" the investment was made and sent for approval by Governor".</i></p>

*Source: Interviews conducted with the employees*

Parliamentary Copy



<sup>108</sup> As per the file for CGE and IC minutes provided for review, IC minutes opposing the purchase transaction in CGE was not available.

<sup>109</sup> According to his memory<sup>110</sup> Source: Financial statements of Galadari Hotels for the year 2013



## 9.5 Galadari Hotels Lanka PLC

### *Background of the company*

9.5.1 Galadari Hotels PLC (Galadari) was incorporated in 1980. Its significant ownership is held by Galadari Brothers LLC<sup>110</sup> and it operates in hotel and tourism sector.

### *EPF's investment in Galadari*

9.5.2 EPF's first investment in Galadari was 12 May 2010 as per the instructions of the MB in its meeting number 11/2010 item number 7 dated 5 May 2010. Prior approval of IC was not obtained for the purchase transaction. The transaction was ratified by the MB on 15 June 2010.

9.5.3 All purchases were in the Investment portfolio. Following is the transaction summary for investments in Galadari during the period 1998 to 2017:

**Table 50: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	Nil	Nil	Nil	Nil	Nil	Nil
Investment	8	23.71	806.15	-	-	-
<b>Total</b>	<b>8</b>	<b>23.71</b>	<b>806.15</b>	<b>-</b>	<b>-</b>	<b>-</b>

Source: SAP data

9.5.4 Summary of all the transactions above LKR 10 million is set out below and the list of all transactions above LKR 10 million are set out in Annexure 24.

**Table 51: Transactions above LKR 10 million during the period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	Nil	Nil	Nil	Nil	Nil	Nil
Investment	8	23.71	806.15	-	-	-
<b>Total</b>	<b>8</b>	<b>23.71</b>	<b>806.15</b>	<b>-</b>	<b>-</b>	<b>-</b>

Source: SAP data

### *Losses incurred by EPF in Galadari*

9.5.5 EPF incurred a total impairment loss of LKR 620.62 million in Galadari and the yearly losses recorded in the books of EPF for Galadari are set out below.

**Table 52: Impairment loss recorded by EPF**

Year	Amount of impairment (LKR /million)
2015	(561.34)
2017	(59.28)
<b>Total</b>	<b>(620.62)</b>

Source: SAP data provided by EPF

<sup>110</sup> Source: Financial statements of Galadari Hotels for the year 2013

- 9.5.6 The purchases were concentrated on two dates during the entire Review Period i.e. between 1 January 1998 and 31 December 2017. The loss could be attributable to the following two transactions:

**Table 53: Concentration of transactions**

Date	Purchase quantity (million)	Price (LKR)	Transaction value (LKR million)	% Transaction value of EPF to market value (In the shares)	Type of transaction	% Transaction value to total transaction value during Review Period
12 May 2010	20.00	34	680.00	83.95%	Crossing	84.35%
31 May 2010	3.56	34	121.11	97.27%	Crossing	15.02%

Source: CSE data provided by CBSL

**Price and volume analysis**

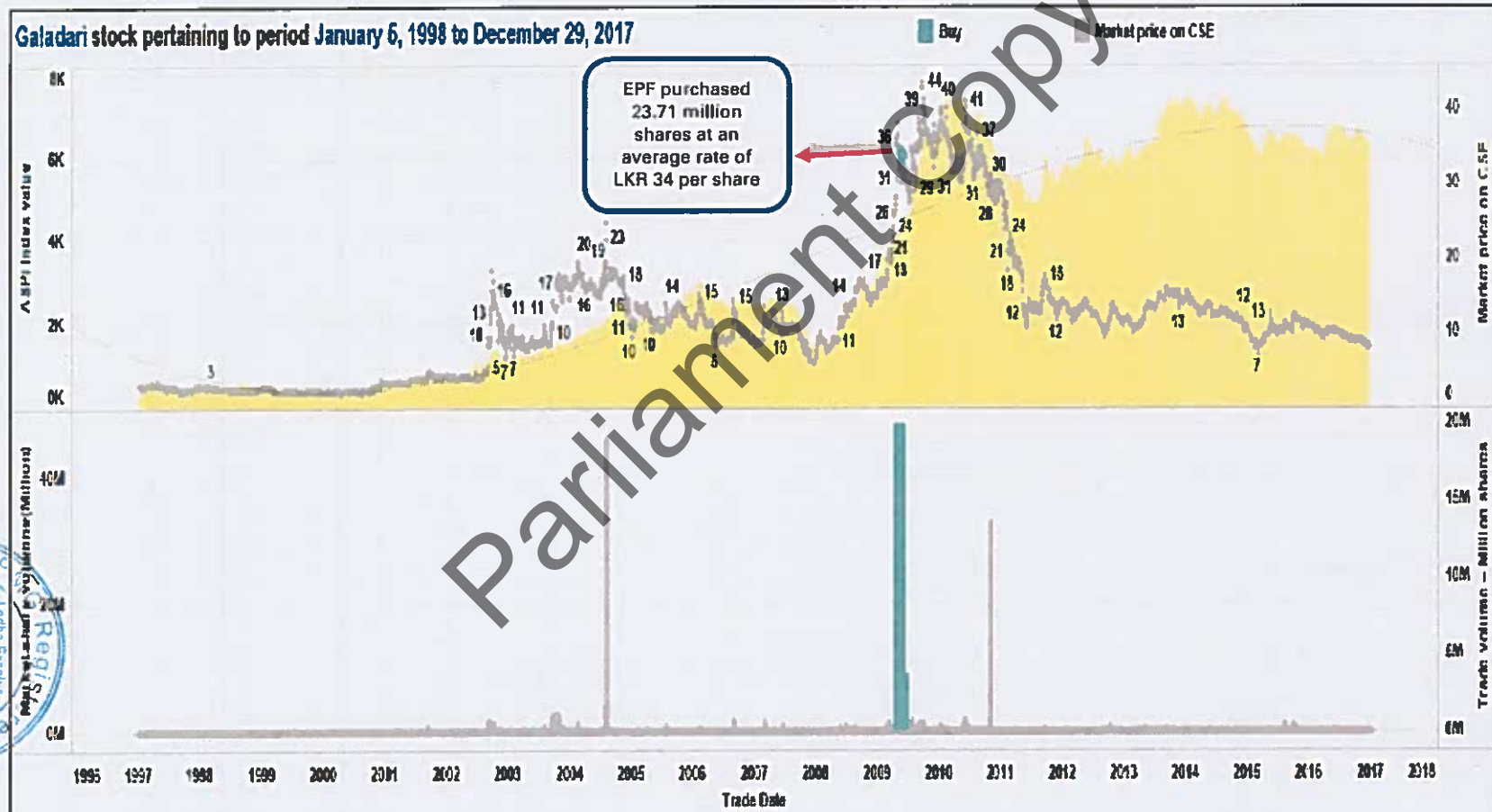
- 9.5.7 Analysis of Galadari's price and volume data along with ASPI index, shows that on the two dates mentioned above, EPF purchased 23.71 million shares of Galadari at an average price of LKR 34 per share. Given below is price and volume chart for the stock during the period 5 January 2008 to 29 December 2017:

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Chart 10: Price movement in Galadari Hotels Lanka PLC during 5 January 1998 to 29 December 2017 along with details of EPF trades



9.5.8 From the above chart, the following was noted:

- The share price of Galadari increased from LKR 15 to LKR 32 during the period 1 January 2010 to 11 May 2010 (Prior to EPF purchase on 12 May 2010 and 31 May 2010). The scrip reached its all-time high of LKR 46 on 23 September 2010.
- On 31 May 2012, the scrip price was trading at LKR 10.80 resulting in an unrealised loss of LKR 550.08 million for the EPF.
- The following was the price movement 30 days before and after the trade:

**Table 54: Market price movement 30 days prior and post the transactions**

Transaction Date	Period	Date from	Date to	Minimum Price(LKR)	Maximum Price(LKR)	Average Price(LKR)
12 May 2010	- 30 days	23 March 2010	11 May 2010	19.00	39.75	27.86
	Price on 12 May 2010			31.00	34.00	32.50
	+30 days	13 May 2010	29 June 2010	28.00	33.75	31.40
31 May 2010	- 30 days	12 April 2010	26 May 2010	25.00	39.75	31.80
	Price on 31 May 2010			32.50	33.75 <sup>111</sup>	33.12
	+30 days	1 June 2010	14 July 2010	27.25	33	30.09

Source: CSE data

9.5.9 From the analysis of price movement, it was observed that the price at which EPF executed the trade was:

- higher by 4.62% than the average market price on 12 May 2010
- higher by 2.66% than the average market price on 31 May 2010

9.5.10 On both days of EPF trades, it was noted that the shares were purchased at the high price of that day, which was above the average price during the period 30 days prior and 30 days after the date of transaction. **MO analysis for price determination was not available, as this transaction was not pre-approved by IC.**

9.5.11 Rationale for investment as per the Monetary Board paper:

The following rationale was documented in the Monetary Board paper for investment in the Galadari Hotels PLC:

- *“With the eradication of terrorism, Sri Lankan tourism and hotel industry is currently having unprecedented growth prospects. Further the Sri Lankan Government has identified the tourism sector as an industry which has immense capability to drive socio economic development of the country*
- *In the view of reaping the benefits of current sustainable peace condition, the Ministry of Tourism and the Sri Lanka Tourism Development Authority have initiated numerous infra-structure and human capital in development projects to*

<sup>111</sup> The price at which EPF purchased (LKR 34.00) was more than the high price as per the information available on CSE website (33.75). The reasons for the same could not be identified.



promote the Sri Lankan tourism industry. The SLTDA goal is to increase annual tourism revenues from LKR. 42.6 million in 2006 to LKR 237 million in 2016, which is a six fold increase.

- In addition, several positive travel advisories have been issued by the western countries recently with regard to Sri Lanka. In January 2010, the New York Times voted Sri Lanka as number one place to visit in 2010 out of 31 Travel destinations around the world.
- In view of the Potentials, the investment in Galadari Hotel was considered prudent.

The above macro-economic parameters were considered by the Monetary Board for investment in Galadari Hotels PLC".

9.5.12 However, it was observed that Galadari was a loss-making company prior to investment. There was no evidence of analysis conducted by the Middle office, prior to investment in the shares of Galadari Hotels PLC. On review of financial summary available in the public domain<sup>112</sup>, it was noted that the following were main reasons for losses:

- Interest payments on loans obtained from Galadari Brothers LLC.
- Foreign exchange fluctuations on the loan interest repayments.
- Refurbishments to the Hotel were not carried out periodically thereby reducing demand. The following were the losses incurred by the company:

Table 55: Losses in Galadari Hotels prior and post investment

(LKR million)

Particulars	2008	2009	2010	2011	2012
Net loss	(629.13)	(351.99)	23.65 <sup>113</sup>	(266.05)	(492.02)

Source: Supporting documents and files provided by EPF department

#### Counterparty analysis

9.5.13 Analysis of the counterparties to the above transactions shows that out of 23.71 million shares, EPF purchased 23.56 million shares (99.37%) from New Nawaloka Hospitals Private Limited in two out of the total eight transactions. Below are the details of the two transactions:

Table 56: Counterparty details

Trade Date	Quantity (million)	Amount in LKR million	Name of the counterparty	EPF Broker	Counterparty broker
12 May 2010	20.00	680.00	New Nawaloka Hospitals (Pvt) Ltd	Asia Securities (Pvt) Ltd	Asia Securities (Pvt) Ltd
31 May 2010	3.56	121.11	New Nawaloka Hospitals (Pvt) Ltd	Asia Securities (Pvt) Ltd	Asia Securities (Pvt) Ltd
<b>Total</b>	<b>23.56</b>	<b>801.11</b>			

<sup>112</sup> This information could not be independently verified

<sup>113</sup> The profit in the books of accounts was indicatively on account of exchange gain.

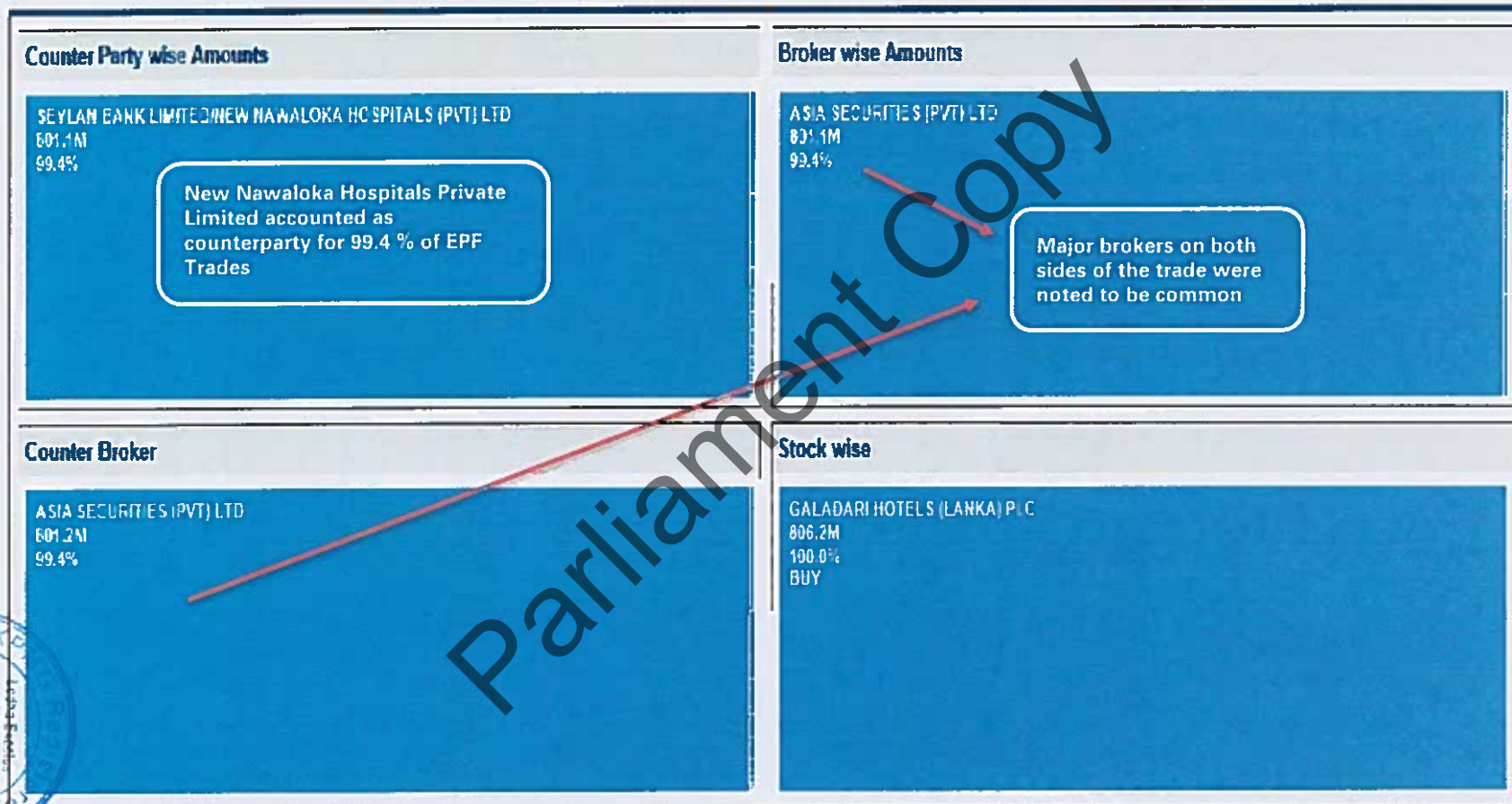
9.5.14 The concentration in the counterparty, counterparty broker and EPF broker in the transactions in Galadari Hotels Lanka PLC are given in the chart below:

Parliament Copy





Chart 11: Details of concentration of counterparty, EPF broker and Counterparty broker in Galadari Hotels Lanka PLC



- 9.5.15 No communication between EPF personnel and the broker could be identified, since email and voice records for this time-period are unavailable. Further, the transaction execution documents, such as order placement sheets, share trading approval forms, deal tickets and settlement sheets were not available in the data provided for review. As a result, the names of the persons authorizing and executing the transaction could not be identified and this was a key limitation in the investigation.
- 9.5.16 ROC documents for New Nawaloka Hospitals Private Limited were received and it was noted that Mr. H. K. J. Dharmadasa, the director in Nawaloka Hospitals Private Limited was charged of insider dealing in Nawaloka Hospitals PLC shares by Securities Exchange Commission (SEC), as per media articles<sup>114</sup>. However, the charges were later withdrawn by SEC in 2012.
- 9.5.17 Based on the information available in the media, the following was observed:
- News article in Sunday island news online<sup>115</sup>, New Nawaloka Hospitals (Private) Limited had purchased the block of shares of Galadari at a price of 19 per share and sold it at a price of LKR 32.50 per share.
  - If the above news was correct, in the absence of depository statement of New Nawaloka Hospitals Private Limited, it could be estimated that New Nawaloka Hospitals Private Limited has made a potential gain of LKR 13.50 per share.
  - Annual reports for Galadari were not available in the public domain prior to 2012 and hence, the shareholding analysis prior to 2012 could not be performed.
  - News article reported that "According to Nawaloka Hospitals Deputy Chairman and Chief Executive Officer Jayantha Dharmadasa it has been "a great relief" for them to get rid of the "burden" – Galadari Hotels (Lanka) PLC."<sup>116</sup>

#### **Transaction compliance**

- 9.5.18 EPF's transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG. The following non-compliances to the laid down policy and procedures were noted:
- For addition of the Company to ASL**
- 9.5.19 As per the guidelines laid down in the ITG 2007, approval of the IC and the MB was required for inclusion of a company in the ASL. In case of investment in Galadari, the MB instructed

<sup>114</sup> <http://www.sundaytimes.lk/091018/FinancialTimes/ft12.html> - this information could not be independently verified.

<sup>115</sup> Link for the news article dated 9 May 2010 <http://www.island.lk/2010/05/09/news19.html>

<sup>116</sup> <http://www.thesundayleader.lk/2012/06/03/epf-lose-billions-as-central-bank-buys-over-valued-shares-in-an-insider-trading-racket/>



management of EPF "to obtain a sizeable portion of shares in Galadari". However, approval of the IC was not obtained prior to the investment.

- 9.5.20 The investment was subsequently ratified by the IC. No documentary evidence for financial analysis of the company was available on records. Post purchase of 20 million shares on 12 May 2010, EPF obtained ratification of the IC and MB.

**Subsequent transaction review**

- 9.5.21 EPF's transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG. The following non-compliances to the laid policy and procedures were noted:
- Two transactions on 12 May 2010 and 31 May 2010 amounting to investment of LKR 801.11 million were not part of IC weekly plan and were subsequently ratified. These trades were with New Nawaloka Hospital Private Limited and have potentially resulted in losses to the EPF.
  - The above two transactions resulted in the EPF holding 13% of the stake in Galadari, which was in breach of the limit of 7.99% holding in a scrip as per ITG 2007. Monetary Board ratified the purchase of 13% stake in Galadari on 15 June 2010.

- 9.5.22 Given below is the summary of trades executed by EPF in Galadari during the Review Period, deviations noted in the transactions as against the prevalent IPS and ITS and the personnel executing the transactions.

**Table 57: Summary of trades, policy deviations and EPF personnel**

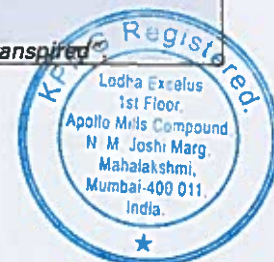
Date	Buy		Sell		Deviation, if any	Personnel
	Quantity (million)	LKR/ million	Quantity (million)	LKR/ million		
12 May 2010	20.00	680.00	-	-	Yes	Transaction details were not available for investigation.
31 May 2010	3.56	121.11	-	-	Yes	
	0.00	0.09	-	-	Yes	
	0.01	0.45	-	-	Yes	
	0.01	0.37	-	-	Yes	
	0.02	0.77	-	-	Yes	
	0.05	1.68	-	-	Yes	
	0.05	1.69	-	-	Yes	

Source: Deal tickets, settlements trades and trade confirmations

- 9.5.23 Mr. M.J.S. Abeysinghe was S/EPF at the time of the transaction and he was questioned about the rationale for the investment. Explanation provided is set out below.

**Table 58: Relevant extracts of interviews with EPF employees**

Name of the person	Role in the transaction/ or in EPF	Explanations provided
Mr. M.J.S. Abeysinghe	Superintendent of EPF at the time of the transaction	.... "hotel sector investments were emphasized to realize higher returns" .... " does not recollect the events that transpired





Name of the person	Role in the transaction/ or in EPF	Explanations provided
		<p>...."IC would have invested and minuted the instructions, if any, and does not recollect the events that transpired."</p> <p>...."Investment Committee analyzes the investment and the rationale must have been documented in the board paper wherein there was a strategic movement to venture into hotel sector and make investments"</p>

Source: Minutes of the Interview

Parliament Copy





## 9.6 Laugfs Gas PLC

### Background of the company

9.6.1 Laugfs Gas PLC (LGL) was incorporated in 2004. It was owned by Laugfs Holdings Limited and is engaged in the downstream business of liquefied petroleum gas and other related products and services. LGL caters to domestic, commercial and industrial LPG market. LGL was listed on the CSE on 8 December 2010.<sup>117</sup>

### EPF's investment in LGL

9.6.2 EPF started investing in Laugfs Gas PLC in 2010. Post approval from IC on 27 October 2010, the first investment transaction in LGL was executed on 7 December 2010 and ratified by MB on 13 December 2010. EPF had invested in the voting and non-voting shares of Laugfs Gas PLC. However, as part of the review, KPMG has reviewed the investments in 'Voting'<sup>118</sup> shares of Laugfs Gas PLC. Summary of EPF's transactions in LGL – Voting shares in the 'Trading' and 'Investment' portfolio during the Review Period is given in the table below.

Table 59: Summary of all transactions in LGL during the Review Period in voting shares<sup>119</sup>

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	10	1.63	64.83	18	1.63	70.57
Investment	93	59.28	2,724.68	3	1.38	68.10
<b>Total</b>	<b>103</b>	<b>60.91</b>	<b>2,789.51</b>	<b>21</b>	<b>3.01</b>	<b>138.67</b>

Source: SAP and CSE data provided by EPF

9.6.3 Summary of the transactions above LKR 10 million is given below and the list of all transactions above LKR 10 Million are provided in Annexure 25.

Table 60: Transactions above LKR 10 million during the Review Period

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	7	1.45	56.44	8	0.87	39.80
Investment	48	55.82	2,589.33	1	1.17	58.87
<b>Total</b>	<b>55</b>	<b>57.27</b>	<b>2,645.77</b>	<b>9</b>	<b>2.04</b>	<b>98.67</b>

Source: SAP and CSE data provided by EPF

<sup>117</sup> Source: Colombo Stock Exchange website ([www.cse.lk](http://www.cse.lk))

<sup>118</sup> Transactions in Voting shares were reviewed as the scrip was highlighted in the PCOI report for allegations in the public domain. The allegations were on a specific transaction executed by EPF on 10 October 2011 and the said transaction was identified in the voting shares of LGL in the investment portfolio

<sup>119</sup> EPF had invested in non-voting shares of Laugfs gas which had 31 transactions above LKR 10 million

**Table 61: Concentration of transactions**

9.6.4 Based on analysis of EPF transactions in LGL, it was observed that a purchase transaction of 33 million shares was executed at a price of LKR 48 per share on 10 October 2011, details of which are mentioned in the table below:

Date	Purchase quantity (million)	Price (LKR)	Transaction value (LKR million)	% Transaction value of EPF to market value (In the shares)	Type of transaction	% Transaction value to purchases during Review Period
10 October 2011	33.00	48.00	1584.00	89.46%	Crossing	58.14%

Source: CSE data and KPMG's workings

**Price and volume analysis**

9.6.5 Analysis of price and volume data in the shares of LGL shows that the purchases of EPF above LKR 10 million were concentrated during the year 2011.

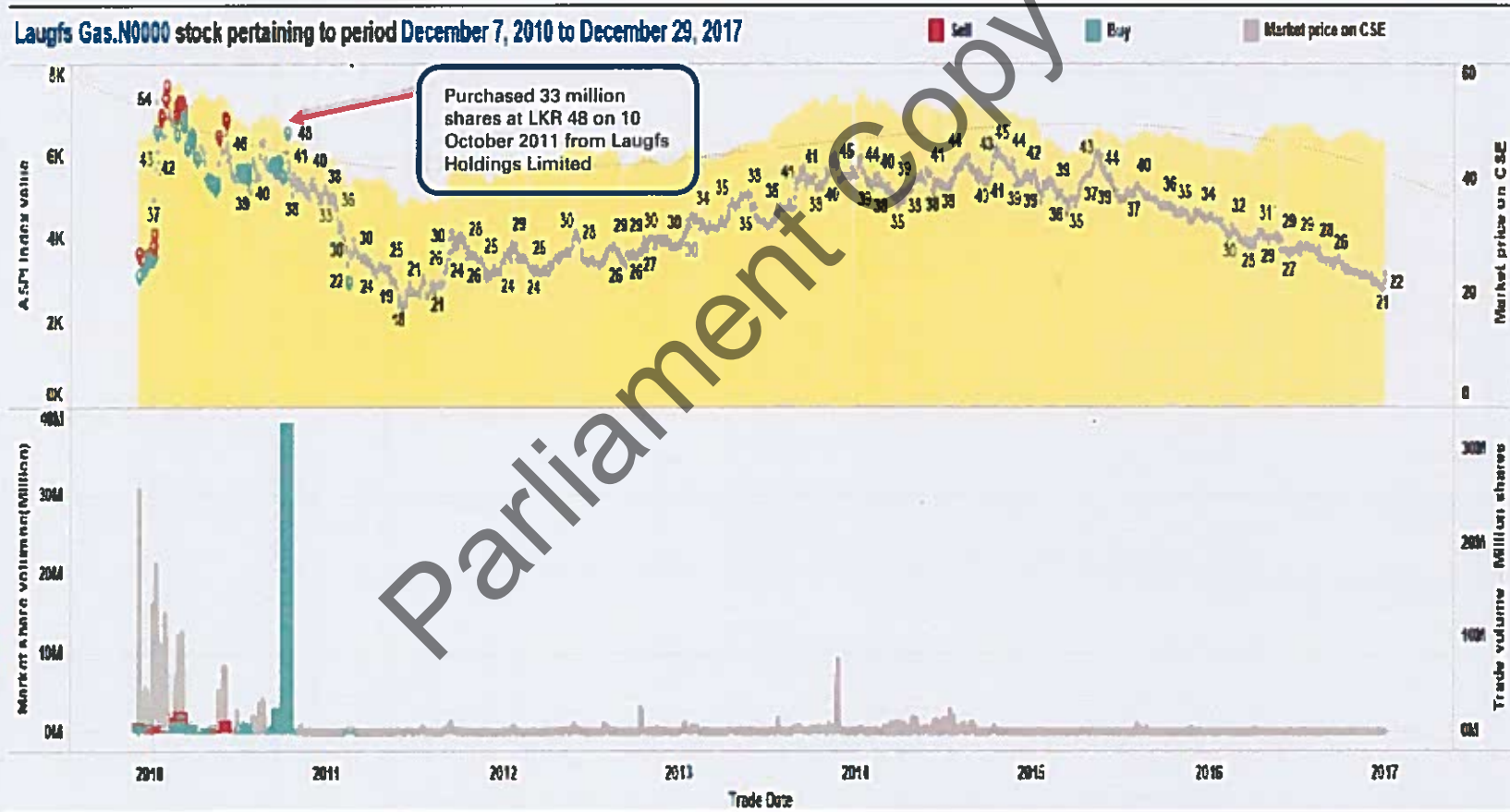
Set out below is price and volume chart for the share during the period 8 December 2010 to 31 December 2017:

Parliament Copy





Chart 12: Price movement in Laugfs Gas PLC during 8 December 2010 (Date of listing on CSE) to 29 December 2017 along with details of EPF trades:



Parliamentary Copy



9.6.6 From the above chart, the following was noted:

- Market price of LGL Voting shares was trading in the range of LKR 40.00 to LKR 43.00 during the period 1 September 2011 and 6 October 2011. A sharp price movement was observed on 7 October 2011 (i.e. trading day immediately preceding 10 October 2011, date on which EPF purchased 33 million shares) and the price touched a high of LKR 50.50 per share. There was a sharp price movement on the date of EPF trade (high-low variation<sup>120</sup> of 16%), after which the price started falling and touched a low of LKR 34.00 on 25 November 2011. In the absence of market data, circular trading pattern, if any, prior to the EPF's purchase cannot be established.

9.6.7 The price movement in the shares of LGL 30 days prior to and after the transaction dated 10 October 2011 is given below.

**Table 62: Market price movement 30 days prior and post the transaction**

Transaction Date	Period <sup>121</sup>	Date from	Date to	Minimum Price (LKR)	Maximum Price (LKR)	Average Price (LKR)
10 October 2011	- 30 days	24 August 2011	7 October 2011	40.00	50.50	41.98
	Price on 10 October 2011			43.50	50.50	47.00
	+30 days	12 October 2011	25 November 2011	34.00	45.50	39.09

*Source: CSE market data*

9.6.8 From the analysis of price movement, it was observed that:

- the price at which EPF executed the trade was higher by 2.13% than the average market price on 10 October 2011
- The EPF price of LKR 48 was observed to be higher than the average price prevailing in the market, 30 trade days prior and subsequent to this trade.
- The market price of the scrip was observed to have fallen to a low price of LKR 34 on 25 November 2011, which resulted in an unrealized loss to the EPF.

9.6.9 On review of weekly plan in the IC minutes dated 5 October 2011, shows that the maximum purchase price approved by the IC was up to LKR 48 (same as the execution price). This trade was executed at nearly the highest price for the day at LKR 48. Subsequently, the prices fell, causing notional loss to the EPF. However, in the 'Recommendation' slide of a presentation, which formed part of the above IC minutes, it was mentioned that "Previously recommended price Rs. 40- 45. After analyzing the new

<sup>120</sup> High-low variation is calculated as a percentage of the difference of high and low prices during the day divided by the low price for the day

<sup>121</sup> Price and quantity analysis is based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction



financial statements, and considering the growth prospects, it is recommended to buy up to Rs. 48.00”

- 9.6.10 Letter dated 24 May 2011 from Mr.W.K.H Wegapitiya, Chairman of Laugfs Holdings Ltd to the Governor was noted in which offer of sale of 10% shares of LGL held by Laugfs Holdings Ltd mentioned. Refer Exhibit 13.
- 9.6.11 As per the IC minutes dated 5 October 2011, MO made a presentation to recommend the investment in LGL in 33.00 million shares, up to price of LKR 48.00 per share. A valuation for calculating the intrinsic value range of the share was presented to the IC. However, on calculating the valuation as per the financial statements of LGL as at 31 March 2011, difference was observed as follows:

**Table 63: Calculation of value of shares of LGL**

Particulars	Calculation as per MO in IC minutes	Calculation as per financial statement of LGL as at 31 March 2011
EPS (LKR ) (A)	2.85	2.84
Market price (05.10.2011) <sup>122</sup> (B)	40.90	40.90
Price/Earning (B/A)	14.35	14.40
Sector (P & E)- Price/Earning <sup>123</sup> (C)	14.50	14.50
NAV as at 31.03.2011 (LKR) (D)	18.09	15.66
Price/Book Value (B/D)	2.26	2.61

Source: Financials of LGL and IC minutes

- 9.6.12 EPS as per financial statements of LGL for the year ended 31 March 2011 was 2.84, as against 2.85 taken by the MO. Thus, causing a difference in the PE ratio. Also, the NAV as at 31 March 2011 was LKR 15.66, as per the annual report of LGL, whereas the MO had based its calculation on LKR 18.09, basis of which could not be ascertained.
- 9.6.13 As per SAP data, following were the details of past purchases of the EPF, 3 months prior to this transaction.

**Table 64: Details of past purchases of EPF**

Date of IC approval	Quantity approved to be purchased in IC (in million)	Price (in LKR)	Actual quantity bought (in million) <sup>124</sup>
11 July 2011	5.00	44.00	0.80
7 September 2011	5.00	44.00	0.47
14 September 2011	5.00	45.00	0.83
21 September 2011	3.00	45.00	2.99

Source: IC minutes

- 9.6.14 EPF had been attempting to purchase huge quantities of the shares of LGL between the price ranges of LKR 44 – LKR 45. However, actual quantity bought was less as compared to the IC approved plan. Moreover, as per the IC minutes dated 29 September 2011, in the

<sup>122</sup> The market price of LKR 40.90 was the highest prevailing price on 5 October 2011.

<sup>123</sup> Since the PE ratio for this sector for the year ended 31 March 2011 was not available, the PE as mentioned in the IC minutes dated 5 October 2011 has been considered for calculation.

<sup>124</sup> The actual quantity bought pertains to transactions in value above 10 million.

investment plan, the EPF exposure in LGL was mentioned as 7.40%. Post the purchase of 33.00 million shares on 10 October 2011, the EPF exposure increased to 17.28%. However, no approval of the IC was available for increasing the exposure.

**Table 65: IC members in the meeting dated 5 October 2011**

Sr no	Name of the employee	Designation
1	Mr. B.D.W.A Silva	Deputy Governor- Chairman
2	Ms. J.P Mampitiya	Assistant Governor
3	Ms. R Dheerasinghe	Superintendent of EPF
4	Ms. K. Gunathilake	Additional Superintendent of EPF
5	Ms. C.M.D.N.K Seneviratne	Additional Superintendent of EPF
6	Mr. L.D.D.Y. Perera	Additional Superintendent of EPF

Source: IC minutes

### Counterparty analysis

- 9.6.15 The EPF trade executed for 33 million shares (LKR 1,584 million) was observed to be a 'Crossing' trade. The counterparty for this transaction was the Holding company of LGL- Laugfs Holding Limited holding 77.61%<sup>125</sup> of the voting shares of LGL. The details of broker, counterparty, counterparty broker and EPF personnel executing this trade are mentioned in the table below.

**Table 66: Counterparty details**

Trade date	Quantity in million	Price per share in LKR	Amount in LKR million	EPF Broker	Counter party	Counter party broker
10 October 2011	33.00	48.00	1,584.00	Nation Lanka Equities (Pvt) Ltd	Laugfs Holdings Limited	Asha Phillip Securities Limited

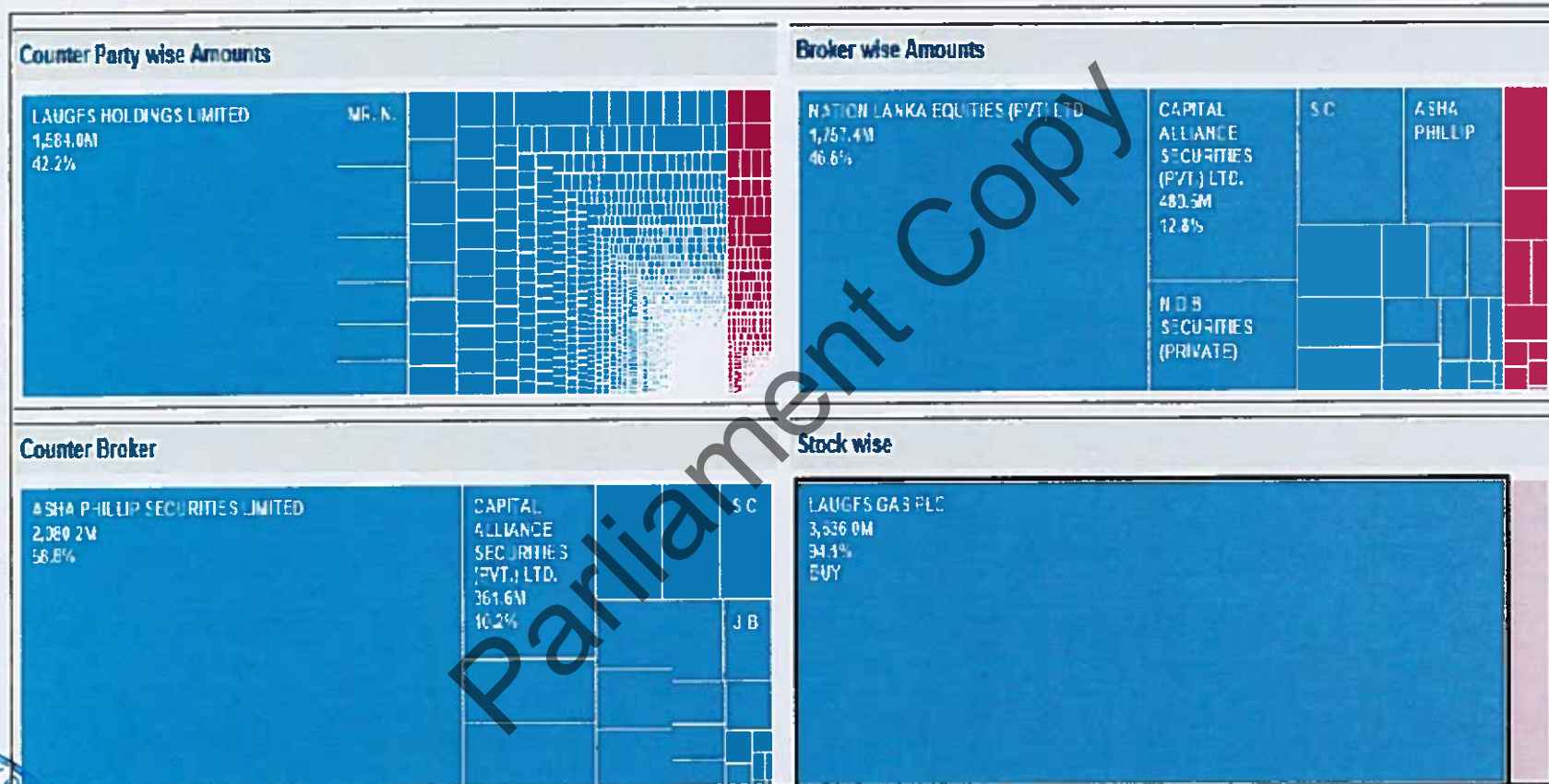
- 9.6.16 On review of the transaction execution documents for the above transaction, it was noted that there was no signature on the deal ticket. Hence, the dealer could not be identified. Refer Exhibit 4 for the unsigned deal ticket.
- 9.6.17 The concentration in the counterparty, counterparty broker and EPF broker in the transactions in Laugfs Gas PLC are given in the chart below:

<sup>125</sup> Annual reports of LGL uploaded on CSE website





Chart 13: Details concentration of counterparty, EPF broker and Counterparty broker in Laugfs Gas PLC:



- 9.6.18 Communications between EPF personnel and the broker could not be verified, since email and voice records for this time-period were not available.
- 9.6.19 As per the data available in media<sup>126</sup>, post this major sale on 10 October 2011, Laugfs Holdings Limited (Counterparty to EPF purchase) started buying shares of LGL and bought 0.13 million shares between 21 October 2011 and 24 October 2011 at prices ranging between LKR 38.30 and LKR 41.40. Information pertaining to all trades, except those executed by EPF on CSE was not available for review. Hence, actual quantity bought by Laugfs Holdings Limited, if any, could not be identified.

### Transaction compliance

#### For addition of the company to ASL

- 9.6.20 EPF started investing in LGL on 7 December 2010 in the investment portfolio and on 8 December 2010 in the Trading portfolio. Following are the details of approvals obtained for inclusion of LGL in the ASL for Trading and Investment portfolio:

Table 67: Approval dates

Portfolio type	Prior approval of IC	Prior approval of MB	MB ratification	Governor approval
Trading	Not available	Not available	Not available	Not available
Investment	27 October 2010	Not available	13 December 2010	Not available

- 9.6.21 Investment portfolio: IC approval for inclusion of LGL in the ASL of Investment portfolio was obtained on 27 October 2010. However, prior approval of MB for inclusion of LGL in the ASL and special approval of the Governor was not available in the documents provided for review, violating ITG 2007. MB ratified the inclusion of LGL in ASL and the initial investment in the IPO through board paper dated 13 December 2010.
- 9.6.22 Trading Portfolio: At the time of initial transaction in the Trading portfolio on 8 December 2010, neither IC approval nor MB approval or Governor's special approval was available in the documents provided for review, violating ITG 2007. IC ratification of these trades was available in the IC meeting dated 16 December 2010.

#### Subsequent transaction review

- 9.6.23 EPF transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG. On review of the SAP data, 64 transactions above LKR 10 million were identified and tested for voting shares of Laugfs Gas. The below table is a summary of the non-compliant transactions out of the transactions tested above LKR 10 million:

<sup>126</sup> <http://www.sundaytimes.lk/121007/news/fr-petition-seeks-action-against-treasury-chief-ch-governor-15633.html>. This information could not be independently verified





**Table 68: Non-Compliant transactions**

Particulars	Count	Value	% of total
Transactions without IC approval	1	58.87	59.66%

Source: IC minutes

**Table 69: Summary of trade, policy deviation and EPF personnel**

Date	Buy		Sell		Deviation, if any	Personnel
	Quantity	LKR/ million	Quantity (million)	LKR/ million		
3 June 2011	-	-	1.17	58.87	Transaction not in plan	<ol style="list-style-type: none"> <li>Mr. W.G.R Harshapriya – Dealer</li> <li>Ms. R. Dheerasinghe-S/EPF</li> <li>Mr. L.D.D.Y Perera-Additional S/EPF</li> </ol>

Source: Deal tickets, settlement sheet, trading approval form

9.6.24

The EPF broker for the above transaction was Somerville Stock Brokers Pvt Ltd. Since the above trade had been executed in the normal market, there were multiple counter parties and counter party brokers. On 24 October 2011, Parliamentary questions<sup>127</sup> were raised by Dr. Harsha De Silva from United National Party to the Minister of Finance and Planning for inquiring into the transactions executed by the EPF for the previous two years. Specific questions were raised for transacting in the scrip of Laugfs Gas PLC. A brief of information sought from the Minister of Finance and Planning for investments relevant to Laugfs Gas PLC is given below:

**Table 70: Parliamentary question no: 2057/11<sup>128</sup>**

Sr no	Questions
1	Dates, price of purchase, Broker details for all purchase transactions for the last two years
2	Dates, price of sale, Broker details for all transactions for the last two years
3	Cost of each transaction including brokerage fees for each transaction for all transactions for the last two years
4	Brokerage fees paid to each broker company for a period of 2 years
5	Closing price of each share bought and sold for two weeks prior to each transaction and two weeks post each transaction for the last two years
6	Reasons for non-provision of the above information

**Table 71: Parliamentary question no: 2109/11<sup>129</sup>**

<sup>127</sup> Parliamentary question no: 2057/11 and 2109/11

<sup>128</sup> Source: [https://www.parliament.lk/en/business-of-parliament/parliamentary-questions?item\\_id=700](https://www.parliament.lk/en/business-of-parliament/parliamentary-questions?item_id=700)

<sup>129</sup> Source: [https://www.parliament.lk/en/business-of-parliament/parliamentary-questions?item\\_id=700](https://www.parliament.lk/en/business-of-parliament/parliamentary-questions?item_id=700)



Sr no	Questions
1	Number of shares held in Galadari Hotels Lanka PLC, Laughs Gas PLC and Ceylon Grain Elevators PLC by the Employees Provident Fund
2	Dates, price of purchase, Broker and Counterparty details
3	Dates, price of sale, Broker and Counterparty details
4	Reasons for non-provision of the above information

9.6.25 A letter dated 30 April 2012, from the former Governor Mr. Ajith Nivard Cabraal was addressed to the Deputy Minister of Finance and Planning, informing him about the consequences of providing the above-mentioned information. Further, the Governor advised that an explanation may be provided for not answering the above questions and directive and guidance shall be obtained from the Minister of Finance after apprising him of the above concerns raised by the Governor. Refer Exhibit 14.1 for the Governor's letter dated 30 April 2012.

#### Exposure limit

9.6.26 Post the purchase of 33 million shares on 10 October 2011, observed that the exposure limit of EPF in LGL had exceeded the investment limit in individual security of 7.99%, as per ITG 2007 and 10%, as per ITG 2011 of the issued share capital of the company. As on 31 March 2011, EPF held 5.60%<sup>130</sup> in LGL, whereas as on 31 March 2012, the shareholding of EPF increased to 17.28%<sup>130</sup> of the voting shares of LGL, being the second largest shareholder, majority of which was contributed by the purchase of 33 million shares on 10 October 2011. This breach of limit was ratified by the IC and MB on 18 April 2012 and 11 May 2012 respectively.

#### Interview Evidence

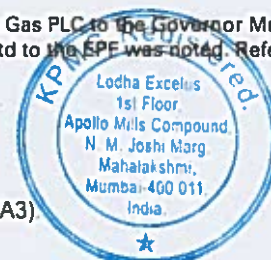
9.6.27 Interviews were conducted with the personnel involved in the transaction

Table 72: Relevant extracts of discussion with EPF employees

Name of the person	Role in the Transaction	Explanation provided
Ms. R. Dheerasinghe	Superintendent	<p><i>"initially IPO in Laughs Gas was studied by an officer in EPF and subsequently after committee approval, EPF applied for the IPO but not many shares were allotted. The subsequent proposal was addressed to the Governor<sup>131</sup>. The Governor sent the same to the S/EPF which was sent to the Middle Office for analysis.</i></p> <p><i>"EPF MO team presented the case and recommended the price of 45-48. Subsequently holding company made a presentation to EPF wherein the rate was 60-65 which was very high. I denied purchase at that rate"</i></p>

<sup>130</sup> Source: Annual report of LGL for the year 2011-12

<sup>131</sup> On review of documents available, a letter dated 24 May 2011 from Laughs Gas PLC to the Governor Mr. Ajith Nivard Cabraal, offering sale of 10% shares of LGL held by Laughs Holdings Ltd to the EPF was noted. Refer Exhibit 14.2 for the letter.





Name of the person	Role in the Transaction	Explanation provided
		<p>"Subsequently, S/EPF asked the EPF officer to further study the proposal considering the prospects of the opportunity to invest in Laugfs Gas"</p> <p>"After some time, the company called back and offered shares at a price of 48. This was consulted with the governor and he agreed that it was a fair price"</p> <p>"Second study of investing in Laugfs Gas PLC was noted to be not upto the mark as per the inquiries by Fraud Commission"</p> <p>"None of the people in the middle office have accepted to have done the presentation regarding the second study to IC in the SEC inquiries with regards to Laugfs Gas. According to my memory, Mr. Naveen Anuradha had made the presentation to propose to IC to purchase at a price 45-48".</p> <p>"During inquiry, I was also informed that several telephone calls were made between the dealers of EPF and employees of Laugfs Holdings."</p>
Mr. L.D.D.Y Perera	Deputy Superintendent	"the holding company shared the proposal that the Governor and subsequently received in the EPF department."
Ms. K Gunathilake	Additional Superintendent	<p>"the holding company had come to meet the Governor and the Governor asked S/EPF to look at it after which a presentation on the investment opportunity was made by the holding company. It was further understood by the Investment Committee that the price was very high, but they saw the prospects in the company".</p> <p>"it might have been the case that the Governor would have instructed to the S/EPF to purchase at that price, but I am not sure. However, the price has been approved by IC."</p>
Mr. J.D.S.J. Nanayakkara	Senior Assistant Superintendent	<p>"it was a special purchase by EPF as the owner of Laugfs Gas PLC had written a letter to EPF department addressed to the Governor according to my memory. According to my memory a specific IC approval was taken after Middle Office recommendation".</p> <p>"SEC was looking at the matter as there were major concerns regarding price fluctuations during the EPF purchase."</p>
Mr. B.D.W.A. Silva	Assistant Governor	"Laugfs Gas had sent a letter to the Governor and this was sent to EPF and then the company met and made a presentation to the EPF department. Prior to this letter being sent, EPF made a presentation to the Investment Committee on the investment of Laugfs Gas IPO and Laugfs Gas and LGL were presented together and it was decided to invest in both Laugfs Gas and Litro Gas".

Name of the person	Role in the Transaction	Explanation provided
		<p><i>"...subsequently there was another proposal to buy stake in Laugfs Gas and first it was approved to buy at 45 in July 2011 but transaction could not be executed. Subsequently, another presentation was made to buy at 48 where previously the company had quoted higher prices".</i></p> <p><i>"...usually Middle Office of the EPF presents the proposal to the Investment Committee. In case of Laugfs Gas PLC, it could have happened that the proposal must have gone to Ms. Rupa Dheerasinghe who would have given it to Middle Office for analysis. She must have allocated it to the Middle Office employees".</i></p> <p><i>On questioning regarding the bribery and corruption allegations in Laugfs Gas, he explained "there was a case filed in 2012 and allegations could have originated from the brokers."</i></p>
<p><b>Mr. P.D.J Fernando</b></p>	<p>Deputy Governor</p>	<p><b>(This investment was not during his tenure in EPF)</b></p> <p><i>"I was surprised that proper analysis was not performed prior to investing in the scrip and the inconsistencies observed were not noted by the internal audit department of CBSL".</i></p>

*Source: Interviews conducted with the employees*

Parliamentary Commission





## 9.7 Piramal Glass Ceylon PLC

### Background

9.7.1 Piramal Glass Ceylon PLC (Piramal Glass), formerly known as Ceylon Glass Company, was incorporated in 1956 and was acquired by Piramal Glass Limited, India in 1999. It is engaged in the manufacturing of glass bottles for food and beverages, pharmaceuticals, liquor, cosmetics and perfume industries. It was listed on CSE on 5 September 1994<sup>132</sup>.

### EPF's investment in Piramal Glass

9.7.2 EPF started investing in Piramal Glass in 2005. Post approval from MB on its meeting dated 8 April 2005 the first investment in Piramal Glass on 11 April 2005. Summary of EPF's transactions in Piramal Glass in the 'Trading' and 'Investment' portfolio during the Review Period is given in the table below:

**Table 73: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	22	35.72	170.83	22	35.72	200.08
Investment	52	88.36	620.57	24	35.07	340.89
<b>Total</b>	<b>74</b>	<b>124.08</b>	<b>791.40</b>	<b>46</b>	<b>70.79</b>	<b>540.97</b>

Source: SAP data

9.7.3 Summary of all the transactions above LKR 10 million is given below and the list of all transactions above LKR 10 million are provided in Annexure 26.

**Table 74: Transactions above LKR 10 million**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	4	26.79	131.41	14	31.08	174.25
Investment	12	81.47	573.24	19	32.71	315.22
<b>Total</b>	<b>16</b>	<b>108.26</b>	<b>704.65</b>	<b>33</b>	<b>63.79</b>	<b>489.47</b>

Source: SAP data

9.7.4 Review of the CSE data, shows concentrated transactions of purchase and sales. EPF purchases were concentrated in the years 2011 and 2012 and sales were during 2010 and 2011 respectively.

**Table 75: Concentration of EPF purchase transactions**

Date	Purchase quantity (million)	Price (LKR)	Transaction value (LKR million)	% transaction value of EPF to market value (In the shares on that day)	Type of transaction	% transaction value to total purchases during Review Period
2 April 2012	45.30	6.20	280.86	99.51%	Crossing	35.49%

<sup>132</sup> Source: Colombo Stock Exchange website ([www.cse.lk](http://www.cse.lk))

Date	Purchase quantity (million)	Price (LKR)	Transaction value (LKR million)	% transaction value of EPF to market value (In the shares on that day)	Type of transaction	% transaction value to total purchases during Review Period
25 November 2011	11.62	7.79	90.47	95.79%	Crossing	11.43%
11 April 2005	2.13	35.50	75.49	19.17%	Crossing	10%
<b>Total</b>	<b>59.05</b>		<b>446.82</b>			<b>56.92%</b>

Source: CSE data

Table 76: Concentration of EPF sale transactions

Date	Sales quantity (million)	Price (LKR)	Transaction value (LKR million)	% transaction value of EPF to market value (In the shares on that day)	Type of transaction	% transaction value to total sales during Review Period
9 January 2015	15.34	5.81	89.13	59.03%	Normal	16.48%
7 March 2011	6.00	12.15	72.90	24.25%	Normal	13.48%
7 December 2010	8.73	8.06	70.30	23.73%	Normal	12.99%
<b>Total</b>	<b>30.07</b>		<b>232.33</b>			<b>42.95%</b>

Source: CSE data

**Price and volume analysis**

9.7.5 Analysis of price and volume data in the shares of Piramal Glass, shows that the purchases of EPF were concentrated in 2012. Given below is price and volume chart for the shares during the period 1 January 1998 to 31 December 2017:







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November 2019

Chart 14: Price movement in Piramal Glass Ceylon PLC during 2 January 1998 to 29 December 2017 along with details of EPF trades

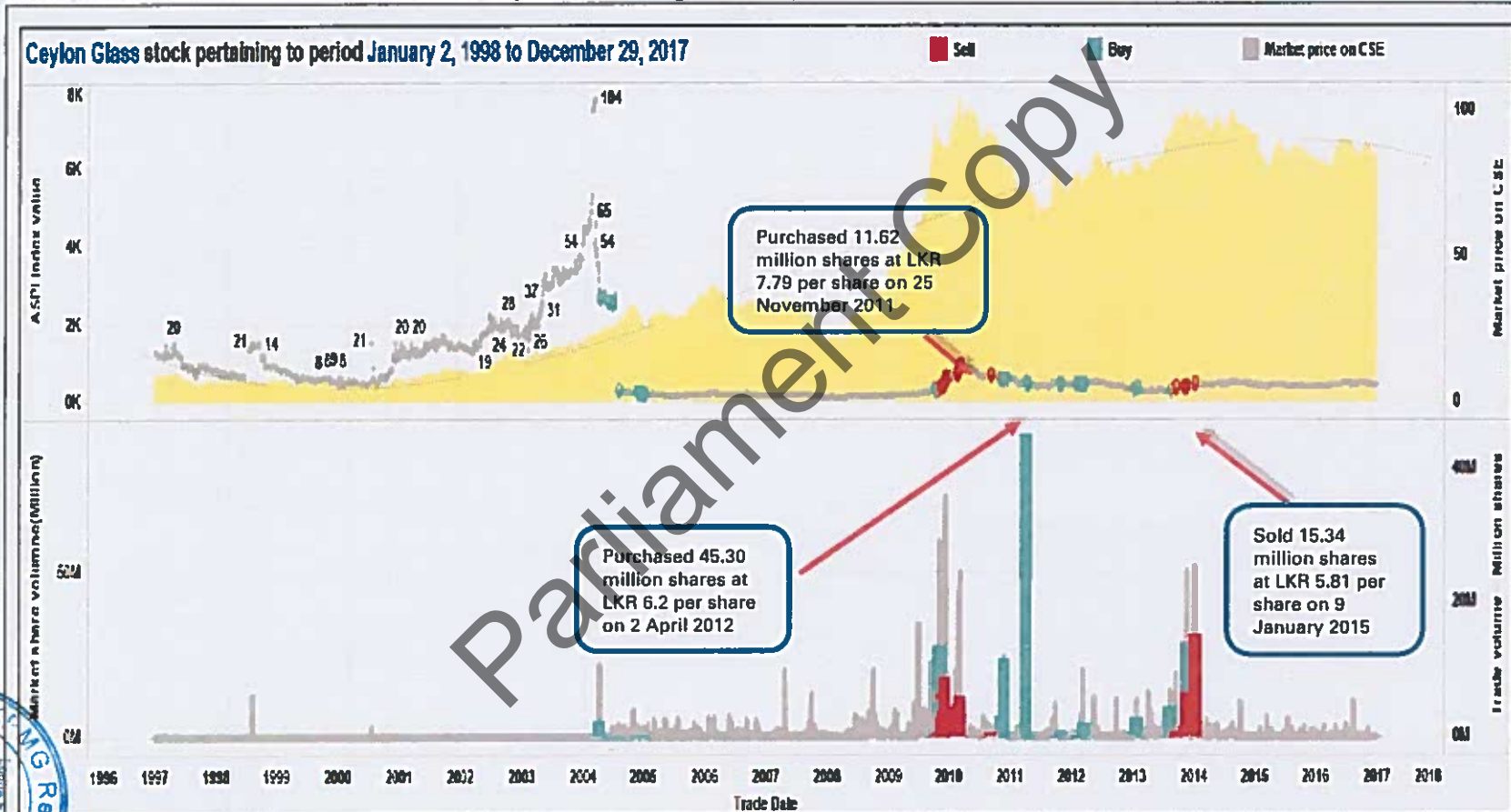
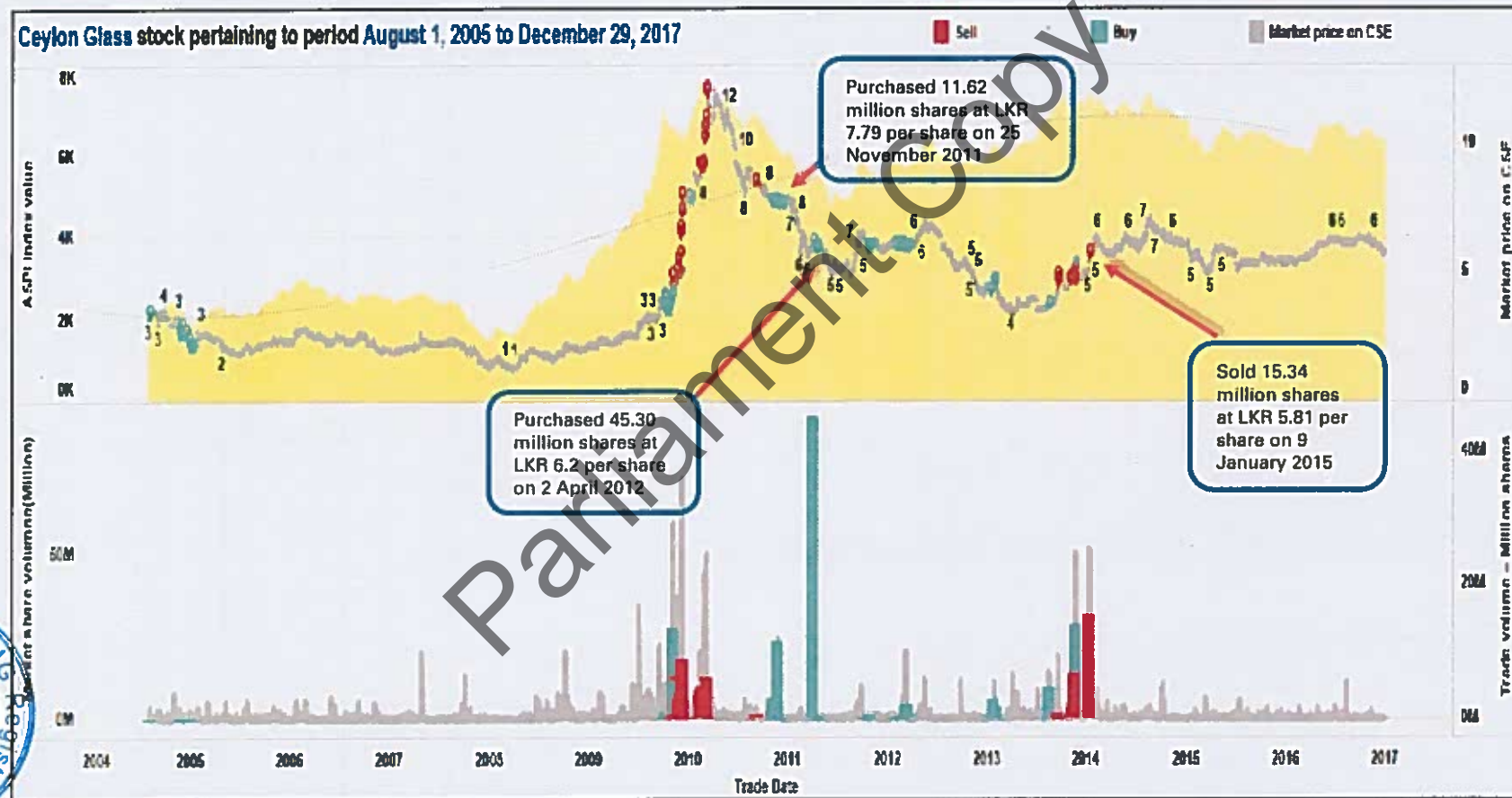




Chart 15: Price movement in Piramal Glass Ceylon PLC during 1 August 2005 to 29 December 2017 along with details of EPF trades:





9.7.6 The movement in the price 30 days prior and after the transactions on the above-mentioned dates is given in the table below.

**Table 77: Market price movement 30 days prior and post the transactions**

Transaction date	Period <sup>133</sup>	Date from	Date to	Minimum price (LKR)	Maximum price (LKR)	Average price (LKR)
<b>Purchases</b>						
11 April 2005	-30 days	24 February 2005	8 April 2005	35.50	104.50	66.66
	Price on 11 April 2005			37.50	39.00	38.25
	+30 days	12 April 2005	31 May 2005	34.75	39.00	36.76
25 November 2011	-30 days	10 October 2011	24 November 2011	7.60	8.30	7.88
	Price on 25 November 2011			7.70	7.80	7.75
	+30 days	28 November 2011	9 January 2012	7.50	8.00	7.75
2 April 2012	-30 days	16 February 2012	30 March 2012	5.60	6.70	6.05
	Price on 2 April 2012			5.90	6.00	5.95
	+30 days	3 April 2012	21 May 2012	5.30	6.20	5.86
<b>Sales</b>						
7 December 2010	-30 days	20 October 2010	6 December 2010	3.40	7.60	4.84
	Price on 7 December 2010			7.70	8.70	8.20
	+30 days	8 December 2010	21 January 2011	7.20	9.10	7.83
7 March 2011	-30 days	14 January 2011	4 March 2011	7.80	11.20	9.07
	Price on 7 March 2011			11.50	12.30	11.90
	+30 days	8 March 2011	21 April 2011	10.50	12.40	11.36
9 January 2015	-30 days	25 November 2014	8 January 2015	4.40	5.70	4.88
	Price on 9 January 2015			5.60	6.10	5.85

<sup>133</sup> Price and quantity analysis is based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction

Transaction date	Period <sup>133</sup>	Date from	Date to	Minimum price (LKR)	Maximum price (LKR)	Average price (LKR)
	+30 days	12 January 2015	27 February 2015	5.60	6.50	6.00

9.7.7 Overall analysis of the price movement around EPF purchase/sale indicated that:

- the price at which, EPF bought the shares, was lower than market prices on one out of three occasions (11 April 2005), whereas on one occasion, the purchase price was the highest market price on that day (2 April 2012)
- the prices at which, EPF sold, was higher<sup>134</sup> than the market prices on two out of three occasions and marginally lower on one occasion

**Counterparty analysis (Buy and sell)**

9.7.8 Review of data received from the CSE shows crossing transactions, large counterparties and broker concentration. The details of the same are given below.

**Table 78: Counterparty details**

Trade Date	Quantity (million)	Amount (million)	Name of the counterparty	EPF Broker name	Major counterparty broker name
2 April 2012	45.30	280.86	R.F.T. Perera	Acuity Stockbrokers (Pvt) Limited	Acuity Stockbrokers (Pvt) Limited
25 November 2011	10.00	78.00			
11 April 2005	2.13	75.49	Piramal Glass Limited	NDB Securities (Pvt) Limited	NDB Securities (Pvt) Limited
17 November 2014	6.39	30.03	Count Monte Cristo (Pvt) Ltd	Softlogic Stockbrokers (Pvt) Limited	Capital Alliance Securities (Pvt) Limited
<b>Total</b>	<b>63.82</b>	<b>464.38</b>			

Source: CSE data

9.7.8.1 Analysis of the counterparties shows that Mr. R.F.T. Perera was the major counterparty for 30.01% of the total transaction value of the EPF. 89.74% of the transactions with this counterparty were crossing transactions.

9.7.8.2 Analysis of the CSE data shows the following top five brokers:

**Table 79: Broker details**

Sr No	Name of the broker	Transaction value in LKR/million	% transaction value to total transaction value
1	Acuity Stockbrokers (Pvt) Ltd	389.86	29.26%
2	Nation Lanka Equities (Pvt) Ltd	132.31	9.93%
3	Candor Equities Limited	118.18	8.87%
4	First Capital Equities (Pvt) Ltd	92.09	6.91%
5	Capital Alliance Securities (Pvt.) Ltd.	89.46	6.71%
	<b>Total</b>	<b>821.90</b>	<b>61.68%</b>

<sup>134</sup> On 2 April 2012, the price at which EPF purchased (LKR 6.20) was more than the high price as per the information available on CSE website (6.00). The reasons for the same could not be identified.





Sr No	Name of the broker	Transaction value in LKR/million	% transaction value to total transaction value
<i>Source: CSE data</i>			

9.7.9 The concentration in the counterparty, counterparty broker and EPF broker in the transactions in Piramal Glass Ceylon PLC is given in the chart below:

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**Chart 16: Details of concentration of counterparty, EPF broker and Counterparty broker in Piramal Glass Ceylon PLC.**





No communication between EPF personnel and the broker could be identified, since voice records for this time period are unavailable.

### Transaction Compliance

#### Initial transaction

- 9.7.10 EPF started investing in Piramal Glass on 11 April 2005. On 23 March 2005, IC reviewed the investment analysis and advised EPF to submit the proposal for proposed investment to the MB. MB in its meeting dated 8 April 2005 approved the inclusion of the Ceylon Glass Company in the approved list of companies (ASL) for the equity market investment by EPF and authorized IC of the EPF to execute trading of the shares at the best market prices.
- 9.7.11 Initial transaction of EPF in the trading portfolio was during 2010, no specific inclusion in ASL for trading portfolio was recommended by the IC or MB. No evidence of analysis for Piramal Glass was available in the documents made available.

#### Subsequent transaction review

- 9.7.12 EPF transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG. On review of the SAP data, 49 transactions above LKR 10 million were identified and tested for Piramal Glass. The below table is a summary of the non-compliant transactions out of the transactions tested above LKR 10 million:

**Table 80: Non-compliant transactions**

Criteria	Count	% above LKR 10 million	Value (LKR million)	% above LKR 10 million
Transactions not pre-approved by the IC	1	2.04%	61.66	5.16%
Transactions not as per IC plan	7	14.29%	143.20	11.99%
<b>Total of non-compliant transactions</b>	<b>8</b>	<b>16.33%</b>	<b>204.86</b>	<b>17.15%</b>

- 9.7.13 Further, no justification in respect of purchase/sale prices was available in the available documents. Details of the non-compliant transactions are given below:

**Table 81: Summary of trades, policy deviations and EPF personnel**

Date	Transaction category	Quantity (million)	Amount in LKR million	Deviation, if any	Personnel
3 November 2010	Purchase	13.67	61.66	Transaction not pre-approved by the IC	1. Mr. W.G.R. Harshapriya - Dealer 2. Mr. M.S.M. Husam - Assistant Superintendent 3. Ms. R. Dheerasinghe - Superintendent

Date	Transaction category	Quantity (million)	Amount in LKR million	Deviation, if any	Personnel
7 December 2010 <sup>135</sup>	Sale	8.73	70.30	IC recommended to purchase however transaction executed was a sale transaction	1. Mr. W.G.R. Harshapriya - Dealer 2. Mr. G.H.P.P Shyamalie - Assistant Superintendent
7 March 2011	Sale	1.00	12.20	IC approved rate of LKR 20 for sale of 6.00 million shares whereas transaction was executed approximately at LKR 12.20	5. Mr. M.S.M. Husam - Dealer
	Sale	1.00	12.10		6. Ms. Rupa Dheerasinghe - Superintendent
	Sale	1.00	12.20		7. Mr. G.H.P.P. Shyamalie - Assistant Superintendent
	Sale	1.00	12.20		8. Mr. L.D.D.Y. Perera - Additional Superintendent
	Sale	1.00	12.20		

9.7.14 Reasons for variations in the transactions as against the approvals were not available.

**Interview Evidence**

9.7.15 Interviews were conducted with the personnel involved in the transaction as mentioned above and the following was noted:

**Table 82: Relevant extracts of interview with EPF employees**

Name of the person	Role in the Transaction	Explanation provided
Mr. M.S.M. Husam	Dealer	"..do not remember the events"
Mrs. G.H.P.P. Shyamalie	Assistant Superintendent	Not available for interview: Migrated out of Sri Lanka

**Source: Interview with the employees**

<sup>135</sup> Order placement sheet not available





## 9.8 Colombo Dockyard PLC

### Background

- 9.8.1 Colombo Dockyard PLC (Colombo Dockyard) was incorporated in the year 1974. Onomichi Dockyard Company Limited owns 51% of the shareholding of Colombo Dockyard and is one of the largest and oldest ship building company in Sri Lanka. It was listed on CSE on 1 January 1983.

### EPF's investment in Colombo Dockyard

- 9.8.2 EPF started investing in Colombo Dockyard in 1998. On 30 July 1998, the Monetary Board ratified the first transaction executed on 15 July 1998. EPF received a dividend of LKR 322.79 million during the Review Period.

- 9.8.3 Summary of EPF's transactions in the 'Trading' and 'Investment' portfolio during the Review Period is set out in the table below.

**Table 83: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	7	0.01	0.71	1	0.01	0.83
Investment	203	15.59	2854.82	113	4.35	121.50
<b>Total</b>	<b>210</b>	<b>15.60</b>	<b>2855.53</b>	<b>114</b>	<b>4.36</b>	<b>122.33</b>

Source: CSE and SAP data provided by CBSL

- 9.8.4 Summary of all the transactions above LKR 10 million is set out below and the list of all transactions above LKR 10 million are set out in Annexure 27.

**Table 84: Transactions above LKR 10 million in Colombo Dockyard**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	-	-	-	-	-	-
Investment	40	11.73	2676.73	1	0.77	26.78
<b>Total</b>	<b>40</b>	<b>11.73</b>	<b>2676.73</b>	<b>1</b>	<b>0.77</b>	<b>26.78</b>

Source: CSE and SAP data provided by CBSL

### Losses incurred by EPF in Colombo Dockyard

- 9.8.5 It was observed that EPF recorded a total impairment loss of LKR 1868.73 million in its books of accounts in 2016. The entire loss of 1868.73 million was incurred by EPF on its Investment portfolio. It was noted that out of total 203 purchases amounting to LKR 2854.82 million in the investment portfolio, 77.79% was contributed only by two transactions amounting to LKR 2220.81 million.



**Table 85: Concentration of transactions in Colombo Dockyard**

Date	Purchase quantity (million)	Price (LKR)	Transaction value (LKR million)	% Transaction value of EPF to market value (In the shares on that day)	Type of transaction	% Transaction value to purchases during the Review Period
30 June 2010	6.89	280	1928.81	97%	Crossing	67.56%
24 November 2010	1.00	292	292.00	99%	Crossing	10.23%
<b>Total</b>	<b>7.89</b>		<b>2220.81</b>			<b>77.79%</b>

Source: CSE data provided to KPMG by CBSL

**Price and volume analysis**

- 9.8.6 Analysis of price and volume data in the shares of Colombo Dockyard shows that the purchases of EPF above LKR 10 million in the Investment portfolio<sup>138</sup> were concentrated during 2010. Set out below is price and volume chart for the shares during the period 2 January 1998 to 29 December 2017:

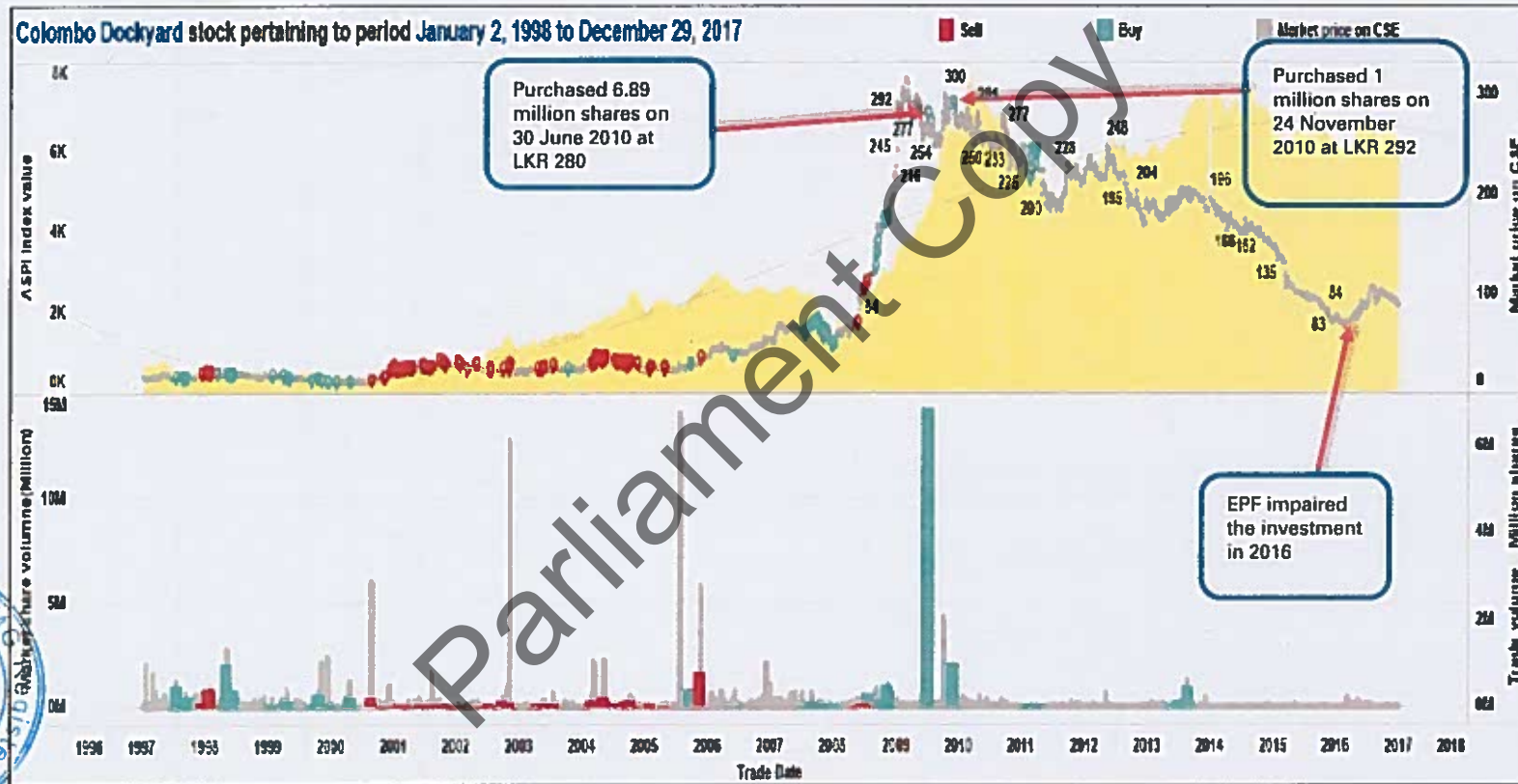
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<sup>138</sup> No losses were observed in the Trading portfolio of EPF for the stock of Colombo Dockyard





**Chart 17<sup>137</sup>: Price movement in Colombo Dockyard during 2 January 1998 to 29 December 2017 along with details of EPF trades**



<sup>137</sup> Chart highlights the ASPI index movement along with the price movement for the scrip. The green bar represents EPF's buy quantity and the red bar represents EPF's sell quantity. The grey bar represents the market traded quantity on a day, in the scrip, as per the information available on the CSE website. All the charts for each of the scrip have been prepared based on these parameters to understand the market price at the time of the trade and movement of stock.

9.8.7 From the above chart, the following was noted:

- An upward movement in price was observed in the shares of Colombo Dockyard during 2009 and 2010, ranging from 116.25 in August 2009 to 315.5 in February 2010, being the highest price of the shares during the Review Period.
- EPF purchased 6.89 million shares (67.56% of purchases in the investment portfolio) at a price of LKR 280 on 30 June 2010 and 1 million shares at a price of LKR 292 on 24 November 2010.
- The movement in the price 30 days prior and after the transaction is given in the table below:

**Table 86: Market price movement in Colombo Dockyard 30 days prior and post the transactions**

Transaction Date	Period <sup>138</sup>	Date from	Date to	Minimum price (LKR)	Maximum price (LKR)	Average price (LKR)
30 June 2010	- 30 days	13 May 2010	29 June 2010	253.00	288.00	267.00
	<b>Price on 30 June 2010</b>			<b>275.00</b>	<b>285.00</b>	<b>280.00</b>
	+30 days	1 July 2010	11 August 2010	241.00	279.00	263.79
24 November 2010	- 30 days	7 October 2010	23 November 2010	260.00	303.50	286.57
	<b>Price on 24 November 2010</b>			<b>290.00</b>	<b>295.00</b>	<b>292.50</b>
	+30 days	25 November 2010	10 January 2011	265.00	295.00	275.87

Source: Market data of CSE

9.8.8 From the analysis of price movement, it was observed that the price at which EPF executed the trade was:

- equal to the average market price on 30 June 2010, but higher as compared to last 30 days average price. The next 30 days average price was also lower than the purchase price
- marginally lower by the average market price on 24 November 2010, but higher as compared to +30 or -30 days.

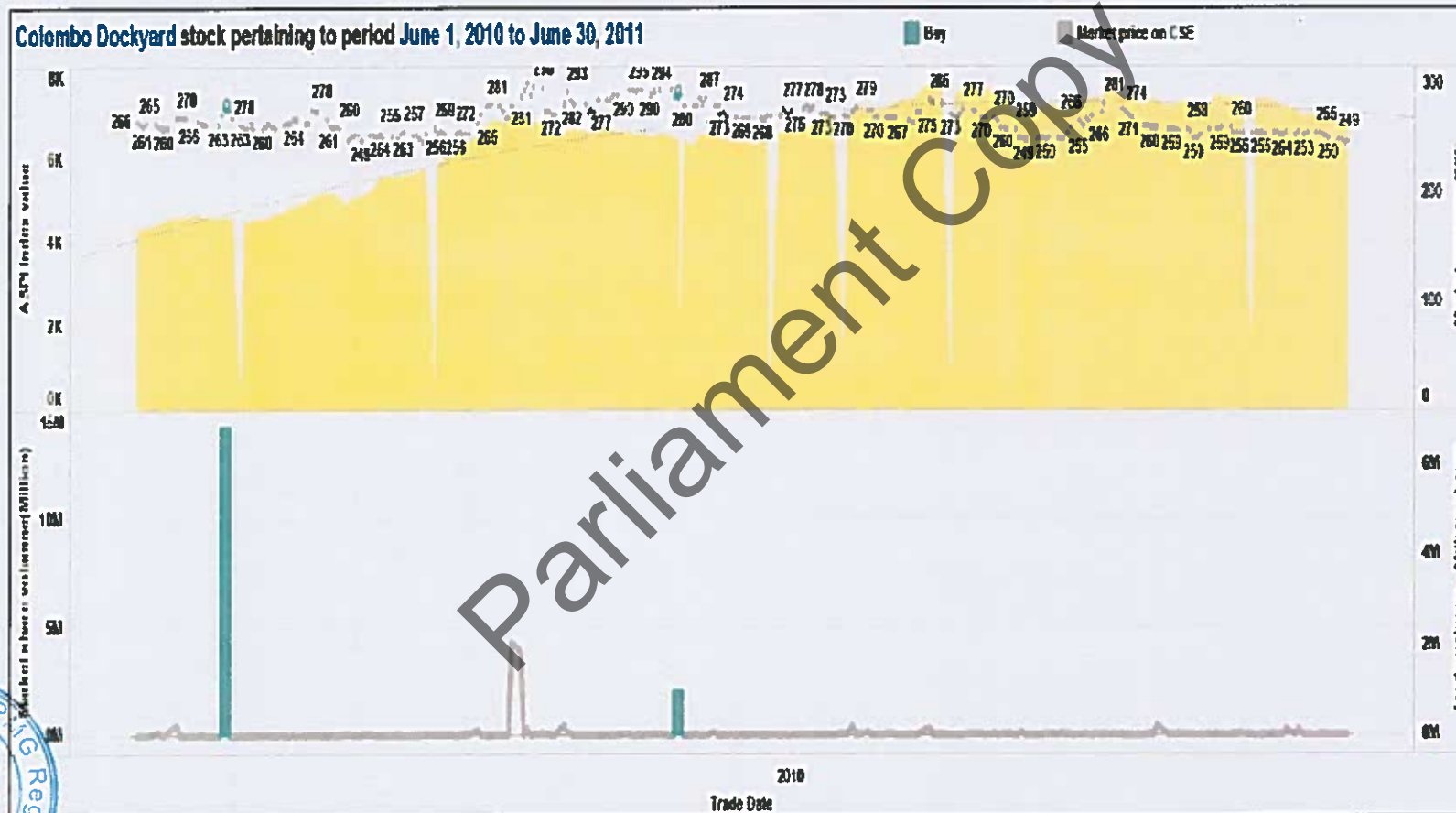
9.8.9 Price movement analysis indicates that the scrip price in June 2010 was around LKR 280 and went up to LKR 298 on 8 Oct 2010. Thereafter, the price came down and another purchase was done on 24 November 2010 at LKR 292. In the subsequent months (upto June 2011), the price was range bound between LKR 245 to LKR 295.

<sup>138</sup> Price and quantity analysis is based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction





Chart 18: Price movement in Colombo Dockyard during 1 June 2010 to 30 June 2011 along with details of EPF trades:



### Counterparty analysis

- 9.8.10 Analysis of data received from CSE shows the following concentration in the counterparty and brokers:

**Table 87: Counterparty details in Colombo Dockyard**

Date	Quantity (million)	Amount in LKR million	Name of the counterparty	EPF Broker name	Counterparty broker name
30 June 2010	6.84	1916.24	Horizon Representation of Companies LLC	Taprobane Securities (Pvt) Limited	Acquity Stockbrokers (Pvt) Limited
	0.05	12.57	Asia Fort Asset Management (Pvt) Limited		Asia Securities (Pvt) Limited
24 November 2010	1.00	292.00	Mr. S.E. Captain	TKS Securities (Pvt) Limited	TKS Securities (Pvt) Limited

*Source: CSE data and KPMG's working*

- 9.8.11 The concentration in the counterparty, counterparty broker and EPF broker in the transactions in Colombo Dockyard PLC is given in the chart below:

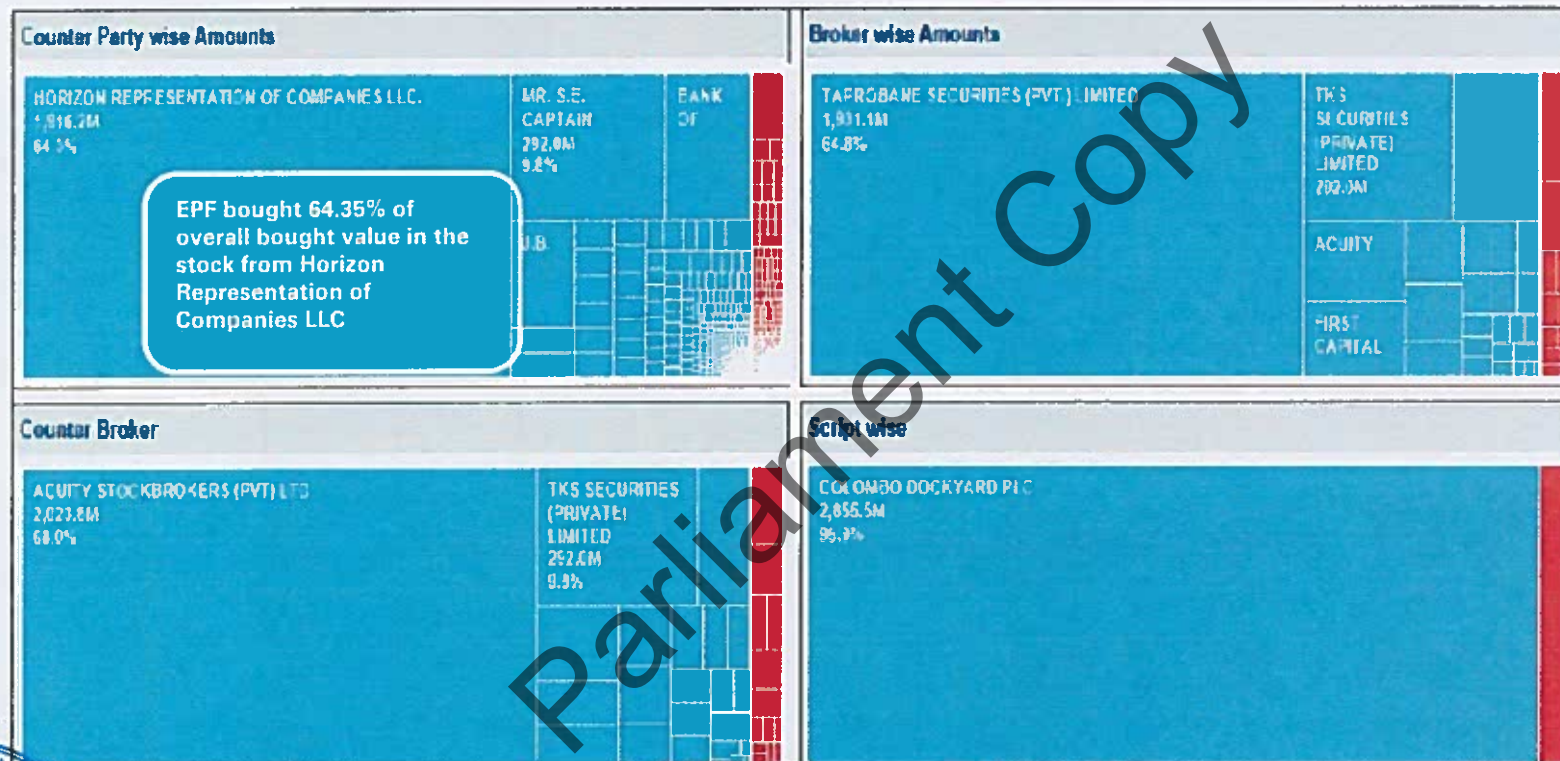
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Chart 19: Details of concentration of counterparty, EPF broker and Counterparty broker in Colombo Dockyard PLC



- 9.8.12 Analysis of the counterparties to the said transactions shows that out of 6.89 million shares purchased by EPF on 30 June 2010, Horizon Representation of Companies LLC was the counterparty for 6.84 million shares.
- 9.8.13 As per the information available in public domain, Horizon Representation of Companies LLC is a company incorporated as a branch of Horizon Energy Group in the United Arab Emirates. The company was owned by Mr. Rashid Al Suwaidi, who was the Chairman. He was also a director in Colombo Dockyard as a representative of the Horizon Group.
- 9.8.14 The other counterparty to the purchase by EPF on 30 June 2010 (0.04 million shares) was Asia Fort Asset Management (Pvt) Limited and Mr. S.E. Captain was the seller of 1.00 million shares purchased by EPF on 24 November 2010. Public domain searches were conducted however no reportable facts or linkages were identified for Mr. S.E. Captain.

#### Transaction compliance

##### For addition of the Company to ASL

- 9.8.15 EPF started investing in Colombo Dockyard on 15 July 1998. MB ratified the investment made by EPF on 30 July 1998. IC minutes for the year 1998 were not available for review.

##### Subsequent transaction review

- 9.8.16 Prior approval of IC was not obtained before executing the transaction on 30 June 2010 for 6.89 million shares. As per the IC minutes dated 2 July 2010, IC ratified the investment and the rationale was "~~as per instructions of the management, EPF purchased 6,888,608 shares of dockyard at Rs. 280.00 per share on 30 June 2010 as a result, EPF's exposure in dockyard increased to 13.022% of the issued share capital of company~~". Refer Exhibit 15 for the extract of the IC minutes.
- 9.8.17 No documentation was available to assess how the price was determined for this purchase. Communications between EPF personnel and the brokers are not available for this date (email and voice records not available).

**Table 88: EPF personnel at the time of the transaction in Colombo Dockyard**

Name of the person	Designation of the person as on 30 June 2010
Mr. P.D.J. Fernando	Deputy Governor
Mr. B.D.W.A. Silva	Assistant Governor
Ms. R. Dheerasinghe	Superintendent of EPF
Mr. L.D.D.Y. Perera	Deputy Superintendent

Source: Employee list provided by HR

- 9.8.18 The transaction on 30 June 2010 with Horizon Representation of Companies LLC increased the stake of EPF in Colombo Dockyard to 13.02%, without obtaining approval of the IC thereby violating the ITG 2007 with respect to "*maximum holdings in shares of a particular company will be 7.99% of the issued share capital of the company*". As per ITG 2007, IC has the authority to exceed the limit for specific companies on recommendation



of the MO. The IC ratified the purchase of shares in excess of 7.99 % exposure on 2 July 2010.

- 9.8.19 EPF's transactions above LKR 10 million (41 transactions) were reviewed for adherence to the laid down IPS and ITG. The following non-compliances to the laid policy and procedures were noted:

**Table 89: Summary of transactions not in compliance in Colombo Dockyard**

Criteria	Count	Value (LKR million)	% of total
Transaction not as per IC plan	4	319.50	11.82%
Transaction not pre-approved by the IC	4	1,966.87	72.75%
<b>Total of non-compliant transactions</b>	<b>8</b>	<b>2,286.37</b>	<b>84.57%</b>

*Source: Documents provided by EPF and KPMG's workings*

- 9.8.20 Set out below is the summary of trades executed by EPF in Colombo Dockyard above LKR 10 million, deviations noted in the transactions as against the prevalent IPS and ITG and the personnel executing the transactions.

**Table 90: Details of trades not in compliance to the policy**

Date	Buy		Sell		Deviation noted	Personnel
	Qty (million)	LKR/ million	Qty (million)	LKR/ million		
30 June 2010	6.89	1928.81			Transaction not pre-approved by the IC and basis on which pricing for this crossing transaction was determined is not available	Critical documents not available, hence, personnel executing the transactions cannot be identified.
24 November 2010	1.00	292.00				Refer para 9.8.21 Names identified in the deal ticket and order placement sheet: 1. Mr. M.S.M. Husam - Dealer 2. Mr. W.G.R. Harshapriya 3. Mr. G.H.P.P. Shyamalie
20 September 2006	0.40	11.29	-	-	Transaction not pre-approved by the IC	Critical documents not available, hence, personnel executing the transactions cannot be identified.
16 November 2006	-	-	0.77	26.78		Refer para 9.8.21

	Buy		Sell		Deviation noted	Personnel
16 July 2009	0.25	27.50	-	-	Transaction executed at a price higher than IC recommended price (at LKR 110 versus approved LKR 108)	Names identified in the trading approval form: 1. Ms. K. Gunathilake 2. Mr. L.D.D.Y. Perera 3. Mr. S.P.Y. Senadheera
<i>Source: Deal tickets, settlement sheets and trade confirmations scanned and uploaded by EPF</i>						

9.8.21 For the transactions on 20 September 2006, 16 November 2006 and 30 June 2010, transaction execution documents, such as order placement sheets, trading approval forms, deal tickets and settlement sheets were not available in the data provided for review. As a result, the names of the persons authorizing and executing the transaction could not be identified.

#### Interview Evidence

9.8.22 Interviews were conducted and some important statements related to investment in Colombo Dockyard, instructions for the transaction and knowledge about the counterparty.

**Table 91: Relevant extracts of the Interviews with EPF employees for Colombo Dockyard**

Name of the person	Role	Explanation provided
Mr. P.D.J. Fernando	Deputy Governor	<p><i>"in line with the port hub concept the investment was made. Number of projections on the port's usage were calculated and according to his views, the investment was projected to be profitable".....</i></p> <p><i>...." does not remember clearly but if the particular investment was not in the Weekly Investment plan it could have happened that instructions came from the top"...</i></p> <p><i>... "at the Deputy Governor level, counterparties would not be known to him and the management including the FO staff in the EPF might have known."...</i></p> <p><i>...."had expressed his dissent to the S/EPF and other members of the Investment Committee regarding the execution of investments of high value equities taken prior to IC approval and subsequently brought to ratification unless there is very compelling reason to do so. This was to discourage the practice completely" ..... "it was the responsibility of the head of EPF department and the relevant hierarchy to notify the Deputy Governor regarding all transactions prior to execution."</i></p>
Mr. M.S.M. Husam	Dealer	He did not recollect the transactions.





Name of the person	Role	Explanation provided
		...." was intimated <sup>139</sup> to him and the investments would be subsequently ratified by the IC".
Mr. W.G.R. Harshapriya	Assistant Superintendent	He did not recollect the transactions
Mr. G.H.P.P. Shyamalie	Assistant Superintendent	Not available for interview: Migrated out of Srilanka
Ms. K. Gunathilake	Additional Superintendent	She responded to the query that can scrips be purchased at price higher than IC approved plan, and she stated "it was common as the market rates would vary"
Mr. L.D.D.Y. Perera	Deputy Superintendent	Regarding a query on purchases without IC approval, stated that he "does not remember the cases there could be directions from top management for some cases"
<i>Source: Interviews conducted with the employees</i>		

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<sup>139</sup> He did not provide names of personnel who intimated him



## 9.9 Bukit Darah PLC

### Background

9.9.1 Bukit Darah PLC (Bukit) was incorporated in 1961 and forms part of the Carson Cumberbatch group. Its business ranges from oil palm plantations in Malaysia and Indonesia, to breweries, investment holdings, portfolio management, real estate and leisure in Sri Lanka. It was listed on the CSE on 1 January 1970.

### EPF's investment in Bukit

9.9.2 EPF started investing in Bukit in the year 2010. First transaction in Bukit was on 13 October 2010, which was ratified and included in the ASL by MB on its meeting dated 29 November 2010. EPF received a dividend of LKR 32.78 million during the Review Period.

9.9.3 Summary of EPF's transactions in Bukit in the 'Trading' and 'Investment' portfolio during the Review Period is set out in the table below.

**Table 92: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	4	0.01	8.11	3	0.01	7.04
Investment	286	2.22	2,285.70	-	-	-
<b>Total</b>	<b>290</b>	<b>2.23</b>	<b>2,293.81</b>	<b>3</b>	<b>0.01</b>	<b>7.04</b>

Source: CSE and SAP data provided by CBSL

9.9.4 Summary of all the transactions above LKR 10 million is set out below and the list of all transactions above LKR 10 million are set out in Annexure 28.

**Table 93: Transactions above LKR 10 million**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	-	-	-	-	-	-
Investment	104	1.77	1,860.80	-	-	-
<b>Total</b>	<b>104</b>	<b>1.77</b>	<b>1,860.80</b>	<b>-</b>	<b>-</b>	<b>-</b>

Source: CSE and SAP data provided by CBSL

### Losses incurred by EPF in Bukit

9.9.5 EPF incurred a total impairment loss of LKR 1707.18 million in Bukit. The years in which EPF recorded impairment loss in its books are shown in below table:

**Table 94: Impairment loss recorded by EPF**

Year	Amount of impairment (in million)
2016	(1508.81)
2017	(198.37)
<b>Total</b>	<b>(1707.18)</b>

Source: SAP data provided by EPF





- 9.9.6 The entire loss of LKR 1707.18 million was incurred by EPF on its investment portfolio. The major high value purchases by EPF in Bukit are summarized in the table below:

**Table 95: Concentration of transactions**

Date	Purchase quantity (million)	Price (LKR)	Transaction value (LKR million)	% Transaction value of EPF to market value (in shares on that day)	Type of transaction	% Transaction value to total purchases during Review Period
25 November 2011	0.18	1025.00	185.01	99.30%	Crossing	8.07%
	0.01		5.12		Normal	0.22%
22 July 2014	0.40	704.52	280.20	96.72%	Normal	12.32%

*Source: Data received from the Colombo Stock Exchange*

- 9.9.7 On review of the Annual reports of EPF for the years mentioned below, it was noted that EPF continued to purchase shares of Bukit in 2013 and 2014, in spite of the cumulative market value being below the purchase cost in the preceding years. Purchases made by EPF on 22 July 2014 comprised 12.32% of the total purchases, the highest value purchase by EPF in Bukit Darah during the Review Period. The price movement in Bukit showed a downward trend from September 2015, leading to impairment losses being recorded. The following table summarizes the cumulative purchases made by EPF compared to its market value:

**Table 96: Summary of purchases and market value as per EPF annual reports**

Year	Purchases (LKR/million)	Cumulative Purchase (LKR/million)	Market Value (LKR/million)	Difference gain/(loss)
2010	565.35	565.35	617.75	52.4
2011	693.42 <sup>140</sup>	1258.77	1406.63	147.86
2012	274.14	1532.91	1203.13	(329.78)
2013	210.49	1743.40	1255.99	(487.41)
2014	564.59 <sup>141</sup>	2307.99	2040.78	(267.21)
2015	-	2307.99	1459.08	(848.91)
2016	-	2307.99	799.19	(1508.81)
2017	-	2307.99	600.82	(1707.17)
<b>Total impairment loss recorded by EPF</b>				<b>(1707.17)</b>

*Source: Annual Reports of EPF*

<sup>140</sup> Included purchase made by EPF on 25 November 2011 contributing to 8.29% of the total purchases

<sup>141</sup> Included purchase made by EPF on 22 July 2014 contributing to 12.32% of the total purchases





**Price and volume analysis**

- 9.9.8 Analysis of price and volume data in the shares of Bukit shows that two major purchases above LKR 10 million contributing to 12.32% and 8.29% of the total purchases made by EPF were made in July 2014 and November 2011.
- 9.9.9 Set out below is price and volume chart for the shares during the period 1 January 1998 to 17 July 2019:

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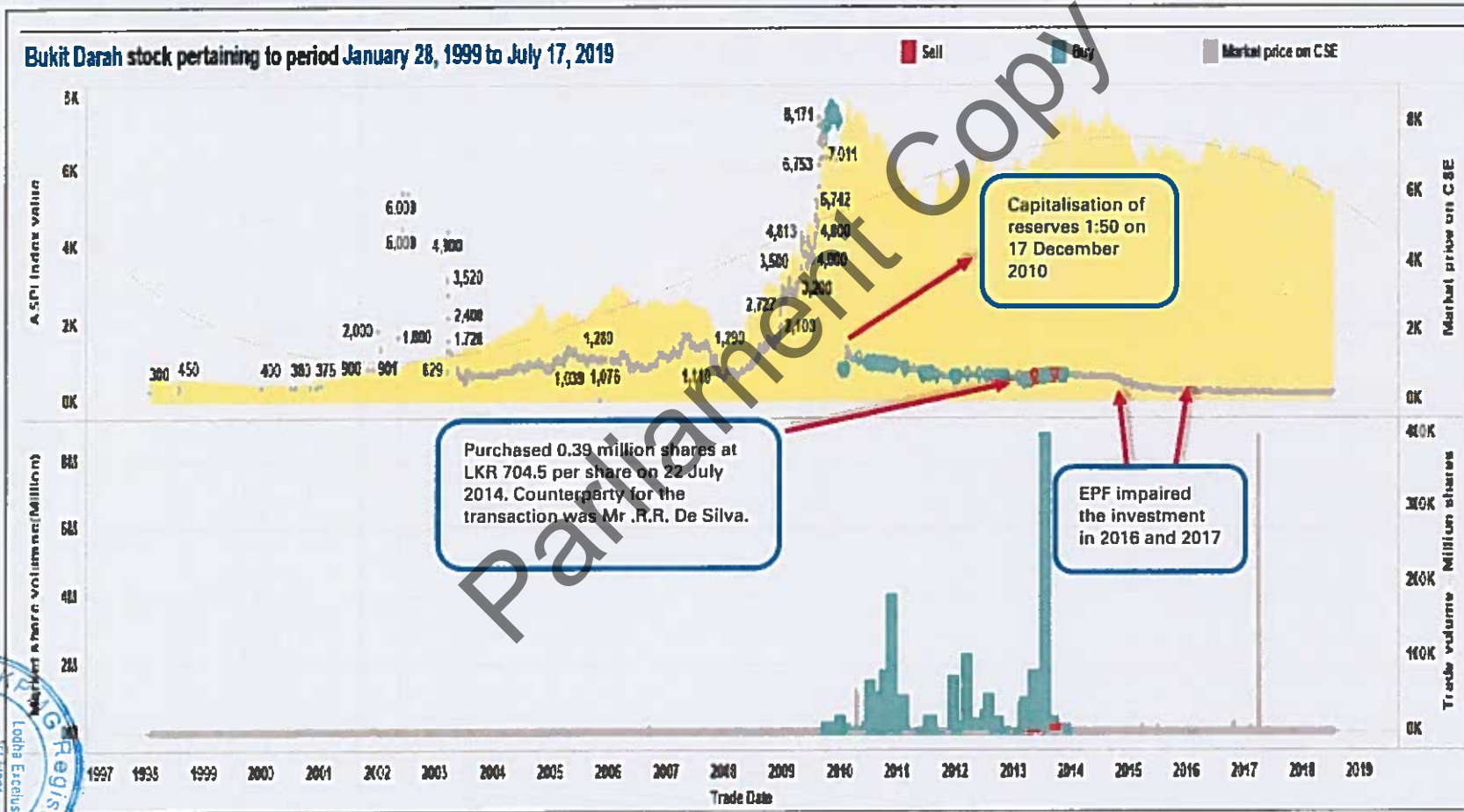




**Project Diamond  
Final Report**

Strictly private and confidential  
November 2019

**Chart 20: Price movement in Bukit Darah PLC during 28 January 1999 to 17 July 2019 along with details of EPF trades**



9.9.10 Following was the movement in the scrip during the period 30 days prior and post the EPF trade:

**Table 97: Market price movement 30 days prior and post the transactions**

Transaction date	Period <sup>142</sup>	Date from	Date to	Minimum price (LKR)	Maximum price (LKR)	Average price (LKR)
25 November 2011	-30 days	7 October 2011	24 November 2011	1000.00	1099.00	1039.64
	<b>Price on 25 November 2011</b>			<b>1024.00</b>	<b>1025.00</b>	<b>1024.50</b>
	+30 days	28 November 2011	17 January 2011	615.00	1080.00	893.19
22 July 2014	-30 days	3 June 2014	21 July 2014	570.00	700.00	654.69
	<b>Price on 22 July 2014</b>			<b>693.00</b>	<b>709.00</b>	<b>701.00</b>
	+30 days	23 July 2014	5 September 2014	675.00	708.00	702.68

*Source: Market data available on CSE website*

From the analysis of price movement, it was observed that the price at which EPF executed the trade was:

- higher by 0.50% than the average market price on 25 November 2011
- higher by 0.05% than the average market price on 22 July 2014

- 9.9.11 On review of weekly plan in the IC minutes dated 21 November 2011, it was noted that the maximum purchase price approved by the IC was LKR 1040. MO analysis to determine the price range was not available in the documents provided for review.
- 9.9.12 Similarly, in the IC minutes dated 17 July 2014, it was noted that the maximum purchase price approved by the IC was LKR 705. MO analysis to determine the price range was not available in the documents provided for review.
- 9.9.13 Prices of Bukit Darah post the corporate action on 23 December 2010 were noted to be consistent and no adverse/ sharp movements were noted on the day of EPF trades during the review. Set out below is the chart showing reduction in price post the corporate action.

<sup>142</sup> Price and quantity analysis are based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction





### Counterparty analysis

9.9.14 Analysis of the counterparties to the above transactions shows that out of 0.19 million shares purchased by EPF on 25 November 2011, J.B. Cocoshell (Pvt) Limited was the seller for 97.30% (0.18 million) shares, in a crossing transaction. For the purchase by EPF on 22 July 2014, Dr. R.R. De Silva was the seller of all the 0.40 million shares and it was a normal transaction on CSE. Details of the counterparties to these transactions are set out below:

9.9.15 **Table 98: Details of transactions**

Trade Date	Quantity (million)	Amount in LKR million	Name of the counterparty	EPF Broker name	Counterparty broker name
25 November 2011	0.18	185.01	J.B. Cocoshell (Pvt) Limited	CTCLSA Securities (Pvt) Limited	CTCLSA Securities (Pvt) Limited
22 July 2014	0.40	280.21	Dr. R.R. De Silva	1. LOLC Securities (Pvt) Limited (25.16%) 2. SC Securities (Pvt) Limited (18.12%) 3. TKS Securities (Pvt) Limited (16.03%) 4. Softlogic Stockbrokers (Pvt) Limited (12.45%) 5. Candor Equities Limited (10.03%) 6. Capital Alliance Securities (Pvt) Limited (9.40%) 7. First Capital Equities (Pvt) Limited (8.81%)	LOLC Securities (Pvt) Limited
<b>Total</b>	<b>0.58</b>	<b>465.22</b>			

Source: CSE data provided by CBSL

9.9.16 No communication between EPF personnel and the broker could be identified, since emails and voice records for this time-period are unavailable for the transaction on 22 July 2011.

9.9.17 The concentration in the counterparty, counterparty broker and EPF broker in the transactions in Bukit is given in the chart below:









9.9.18 Review of Annual reports of Lanka Orix Leasing Company PLC for the year 2014-15 shows that Mr. R.R. De Silva was a major shareholder in this company. Review of the ROC documents for LOLC Securities Limited (one of the counter broker) shows that Lanka Orix Leasing Company was the holding company for LOLC Securities Limited.

### Transaction Compliance

#### For addition of the company to ASL

9.9.19 As per ITG 2007, prior approval of IC and MB was required for adding a company to the ASL. If investments/trades were to be made in a company not in the ASL, then prior approval of the IC and special approval of the Governor was required. MB was to ratify such investments in the Board meeting to be held immediately thereafter. The initial purchase on 13 October 2010 was executed **without prior approval of IC and special approval of Governor**, thereby violating the requirements of ITG 2007. Since no prior approval was obtained, no evidence of analysis was found. However, the investment was ratified by IC on 15 October 2010 and MB ratified the purchase and approved for inclusion in the ASL on 29 November 2010, almost one month after the initial purchase.

#### Subsequent transaction review

9.9.20 EPF's transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG. Out of 104 transactions above LKR 10 million, the following non-compliances to the laid policy and procedures were noted:

Table 99: Non-compliant transactions

Criteria	Count	Value (LKR million)	% of total
Transactions not as per IC plan	3	61.07	3.28%
Transactions not pre-approved by the IC	9	239.86	12.89%
<b>Total of non-compliant transactions</b>	<b>12</b>	<b>300.93</b>	<b>16.17%</b>

Source: Documents provided by EPF and KPMG's workings

9.9.21 Set out below is the summary of trades executed by EPF in Bukit during the Review Period, deviations noted in the transactions as against the prevalent IPS and ITG and the personnel executing the transactions.

Table 100: Summary of trades, policy deviations and EPF personnel

Date	Buy		Deviation, if any	Personnel
	Quantity (million)	LKR/million		
13 October 2010	0.01	109.66	Transactions not pre-approved by the IC	1. Mr. M.S.M. Husam – Dealer 2. Ms. Rupa Dheerasinghe – Superintendent 3. Mr. L.D.D.Y Perera – Additional Superintendent
	0.00	0.73		



		Buy		Deviation, if any	Personnel
27 June 2011		0.01	13.00		1. Mr. M.S.M. Husam – Dealer 2. Ms. Rupa Dheerasinghe - Superintendent 3. Mr. L.D.D.Y Perera – Additional Superintendent 4. Mr. G.H.P.P. Shyamalie - Assistant Superintendent
12 July 2011		0.03	26.62		1. Mr. W.G.R. Harshapriya – Dealer 2. Mr. B.M.W.S. Balasooriya – Assistant Superintendent 3. Mr. L.D.D.Y Perera – Additional Superintendent 4. Ms. Rupa Dheerasinghe – Superintendent
		0.01	12.78		
		0.03	34.10		
18 October 2011		0.01	12.82	Quantity purchased (57,100) higher than the recommendation (40,000) made by IC in the weekly plan	1. Mr. W.G.R. Harshapriya – Dealer 2. Mr. B.M.W.S. Balasooriya – Assistant Superintendent 3. Ms. Rupa Dheerasinghe- Superintendent 4. Mr. L.D.D.Y Perera – Additional Superintendent
		0.01	5.46		
		0.04	42.79		
13 February 2012		0.02	13.24	Transactions not pre-approved by the IC	1. Ms. K. Gunathilake – Superintendent 2. Mr. L.D.D.Y. Perera – Additional Superintendent 3. Mr. J.D.S.J. Nanayakkara – Senior Assistant Superintendent
		0.03	23.32		
		0.01	6.41		

*Source: Deal tickets, settlements sheet, order placement sheets and trading approval forms provided by EPF*

### Interview Evidence

9.9.22 KPMG conducted interviews with the personnel involved in the transaction as mentioned above and the following was noted:

Table 101: Relevant extracts of interviews with EPF employees

Name of the person	Role in the Transaction/in EPF	Explanation provided
Mr. P.D.J. Fernando	Deputy Governor	<p>....."it was a company having good prospects and their performance mainly depends on their investments in Palm oil plantations in Malaysia, but prone to fluctuations arising from volatility in the commodity prices"</p> <p>....."had expressed his dissent to the S/EPF and other members of the Investment Committee regarding the execution of investments of high value equities taken prior to IC approval and subsequently brought to ratification unless there is very compelling reason to do so. This was to discourage the practice completely" ..... "it was the responsibility of the head of EPF department and the relevant hierarchy to notify the Deputy Governor regarding all transactions prior to execution."</p>



**Project Diamond  
Final Report**

Strictly private and confidential  
November 2019

Name of the person	Role in the Transaction/in EPF	Explanation provided
<b>Mr. W.G.R. Harshapriya</b>	Assistant Superintendent	<i>"Mr. Harshapriya stated that Bukit Darah was not recommended by the MO for investment"<sup>143</sup></i>
<b>Mr. M.S.M. Husam</b>	Dealer	He did not recollect the transactions.  ...." was intimidated <sup>144</sup> to him and the investments would be subsequently ratified by the IC".
<b>Ms. Rupa Dheerasinghe</b>	Superintendent	No response available
<b>Mr. L.D.D.Y Perera</b>	Additional Superintendent	No response available
<b>Mr. G.H.P.P. Shyamalie</b>	Assistant Superintendent	Not available for interview: Migrated out of Sri Lanka
<b>Mr. B.M.W.S. Balasooriya</b>	Assistant Superintendent	Not associated with equity and handled fixed income dealing hence did not offer any comments

*Source: Interviews conducted with the employees*

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<sup>143</sup> Even though the investment was not recommended by the MO, there was no documentary evidence available for review to corroborate the same.

<sup>144</sup> He did not provide names of personnel who intimidated him





## 9.10 Carson Cumberbatch PLC

### Background of the company

9.10.1 Carson Cumberbatch PLC (Carson) is a conglomerate incorporated in 1913, whose operations span across Sri Lanka and South-East Asian region. Their main lines of business include oil palm plantation, investment and financial services, beverage, real estate, leisure and management services. The company was listed on the CSE on 1 January 1967.<sup>145</sup>

### EPF's investment in Carson

9.10.2 EPF started investing in Carson in October 2010. The first transaction in the Investment portfolio was executed on 13 October 2010 and subsequently, ratification was obtained from MB, along with approval for inclusion to Approved Share List on 29 November 2010. EPF received a dividend of LKR 51.96 million during the Review Period.

9.10.3 The summary of EPF's transactions for Carson in the 'Trading' and 'Investment' portfolio during the Review Period is provided in the table below.

**Table 102: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	3	0.03	13.01	-	-	-
Investment	528	5.28	2568.35	-	-	-
<b>Total</b>	<b>531</b>	<b>5.31</b>	<b>2581.36</b>	-	-	-

Source: SAP and CSE data provided by EPF

9.10.4 Summary of all transactions above LKR 10 million is given below and the list of all transactions above LKR 10 million is provided in Annexure 29.

**Table 103: Transactions above LKR 10 million**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	2	0.03	11.65	-	-	-
Investment	208	3.81	1859.61	-	-	-
<b>Total</b>	<b>210</b>	<b>3.84</b>	<b>1871.26</b>	-	-	-

Source: SAP and CSE data provided by EPF

### Losses incurred by EPF in Carson

9.10.5 It was observed that EPF recorded a total impairment loss of LKR 1625.64 million in its books of account for Carson in the year 2016. The entire loss of LKR 1625.64 million was incurred by EPF in its investment portfolio. On review of the transactions, it was observed that there was no pattern of concentration of transactions (Comprising 10% or more of total transaction value in the scrip during the period of review) executed by EPF in the investment portfolio. In absence of such a

<sup>145</sup> Source: Colombo Stock Exchange website ([www.cse.lk](http://www.cse.lk))

concentration, top 5 transactions based on value were analysed. These five transactions contributed to 17.99% of the total purchases in the investment portfolio and their details are given below.

9.10.6 **Table 104: Concentration of Transactions:**

Date	Purchase quantity (million)	Price (LKR)	Transaction value (LKR million)	% Transaction value of EPF to market value (In the shares)	Type of transaction	% Transaction value to total transaction value during Review Period
13 October 2010	0.10	952.79	94.14	64.51%	Normal	3.67%
7 June 2013	0.20	445.00	88.73	99.70%	Normal	3.45%
20 June 2013	0.20	445.00	89.00	100.00%	Crossing	3.47%
1 July 2013	0.20	440.00	88.00	100.00%	Normal	33.43%
20 September 2013	0.26	399.97	101.99	99.59%	Normal	3.97%
<b>Total</b>	<b>0.96</b>		<b>461.86</b>			<b>17.89%</b>

*Source: CSE data and KPMG's working*

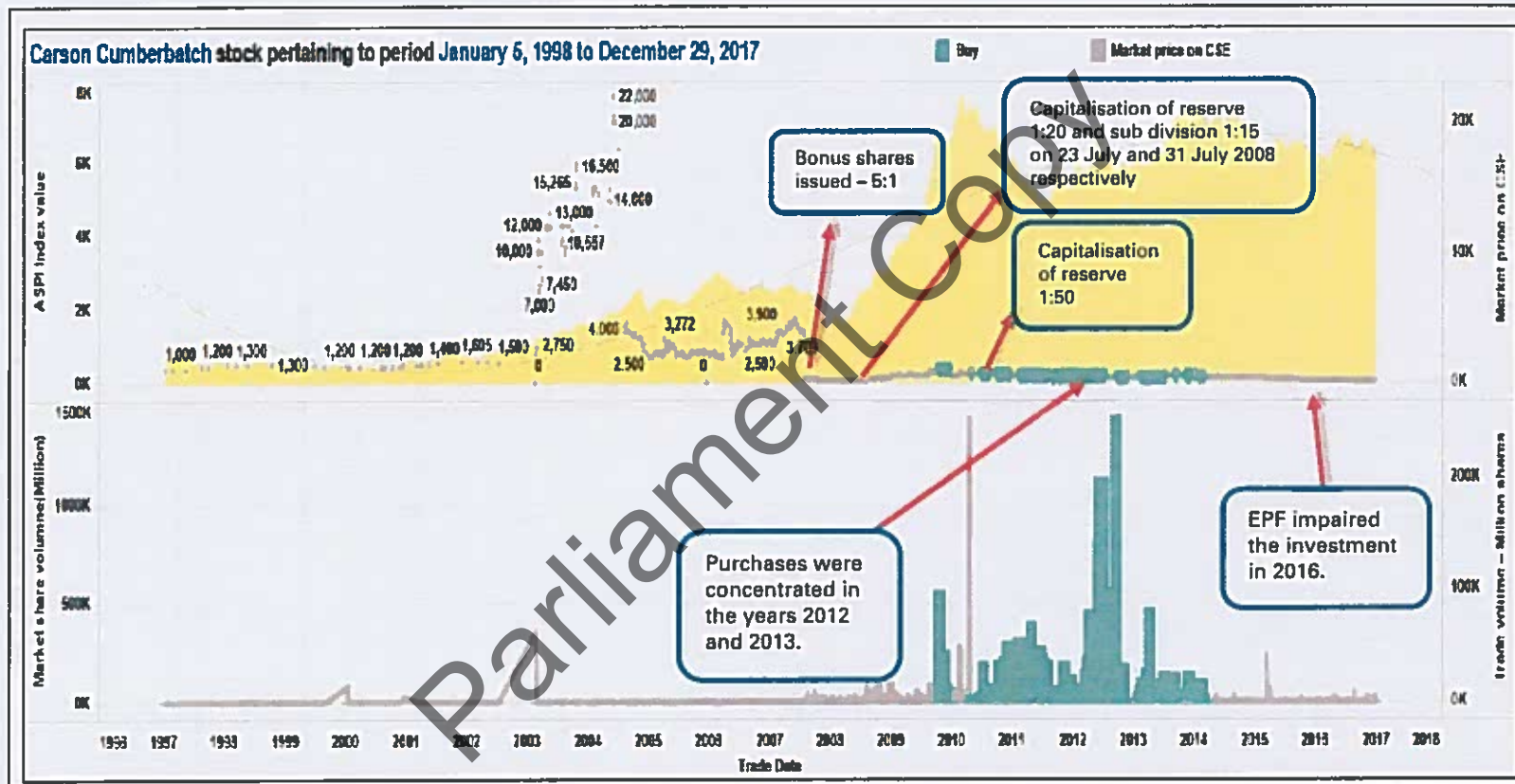
9.10.7 Of the above five transactions, four were executed in normal market on CSE, whereas one transaction was executed as a 'Crossing' transaction

**Price and volume analysis**

9.10.8 Analysis of price and volume data of Carson shows that the purchases of EPF above LKR 10 million in the Investment portfolio were executed by EPF during the years 2010 and 2013. Given below is price and volume chart for the shares during the Review Period:



Chart 23: Price movement in Carson Cumberbatch PLC during 5 January 1998 to 29 December 2017 along with details of EPF trades:





9.10.9 From the above chart, the following was noted:

- After the price adjustment in the scrip due to corporate action on 17 December 2010, the price was observed to have surged from LKR 499.50 on 24 December 2010 to LKR 729.80 on 14 February 2011, which was the highest price of the shares during the period 17 December 2010 to 29 December 2017.
- Majority of EPF purchases above LKR 10 million were during 2012 and 2013. The price of the scrip was observed to have gradually fallen from LKR 533 on 2 January 2012 to LKR 350 on 31 December 2013.

9.10.10 The price movement in Carson, 30 days prior to and after the 'Crossing' transaction on 20 June 2013 is given below:

Table 105: Market price movement 30 days prior and post the transactions

Transaction date	Period <sup>(1)</sup>	Date from	Date to	Minimum price (LKR)	Maximum price (LKR)	Average price (LKR)
13 October 2010	- 30 days	30 August 2010	12 October 2010	717.00	1150.00	863.14
	Price on 13 October 2010			998.90	1020.00	1009.45
	+30 days	14 October 2010	30 November 2010	902.00	1230.00	1011.93
20 June 2013	- 30 days	6 May 2013	19 June 2013	436.00	459.00	443.75
	Price on 20 June 2013			435.00	444.50	439.75
	+30 days	21 June 2013	5 August 2013	411.50	450.00	426.24
1 July 2013	- 30 days	14 May 2013	28 June 2013	435.00	459.00	442.41
	Price on 1 July 2013			440.00	450.00	445.00
	+30 days	2 July 2013	14 August 2013	382.00	450.00	418.46
7 June 2013	- 30 days	23 April 2013	6 June 2013	436.00	459.00	445.20
	Price on 7 June 2013			440.00	445.00	442.50
	+30 days	10 June 2013	25 July 2013	415.00	450.00	432.05
20 September 2013	- 30 days	1 August 2013	17 September 2013	350.00	417.00	383.64
	Price on 20 September 2013			370.00	400.00	385.00
	+30 days	23 September 2013	14 November 2013	370.00	405.00	385.44

Source: CSE market data

9.10.11 From the analysis of price movement on 20 June 2013, it was observed that the price at which EPF executed the trade was higher by 1.19% than the average market price on that day. On review of weekly plan in the IC minutes dated 20 June 2013, noted that the maximum purchase price

<sup>(1)</sup> Price and quantity analysis is based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction



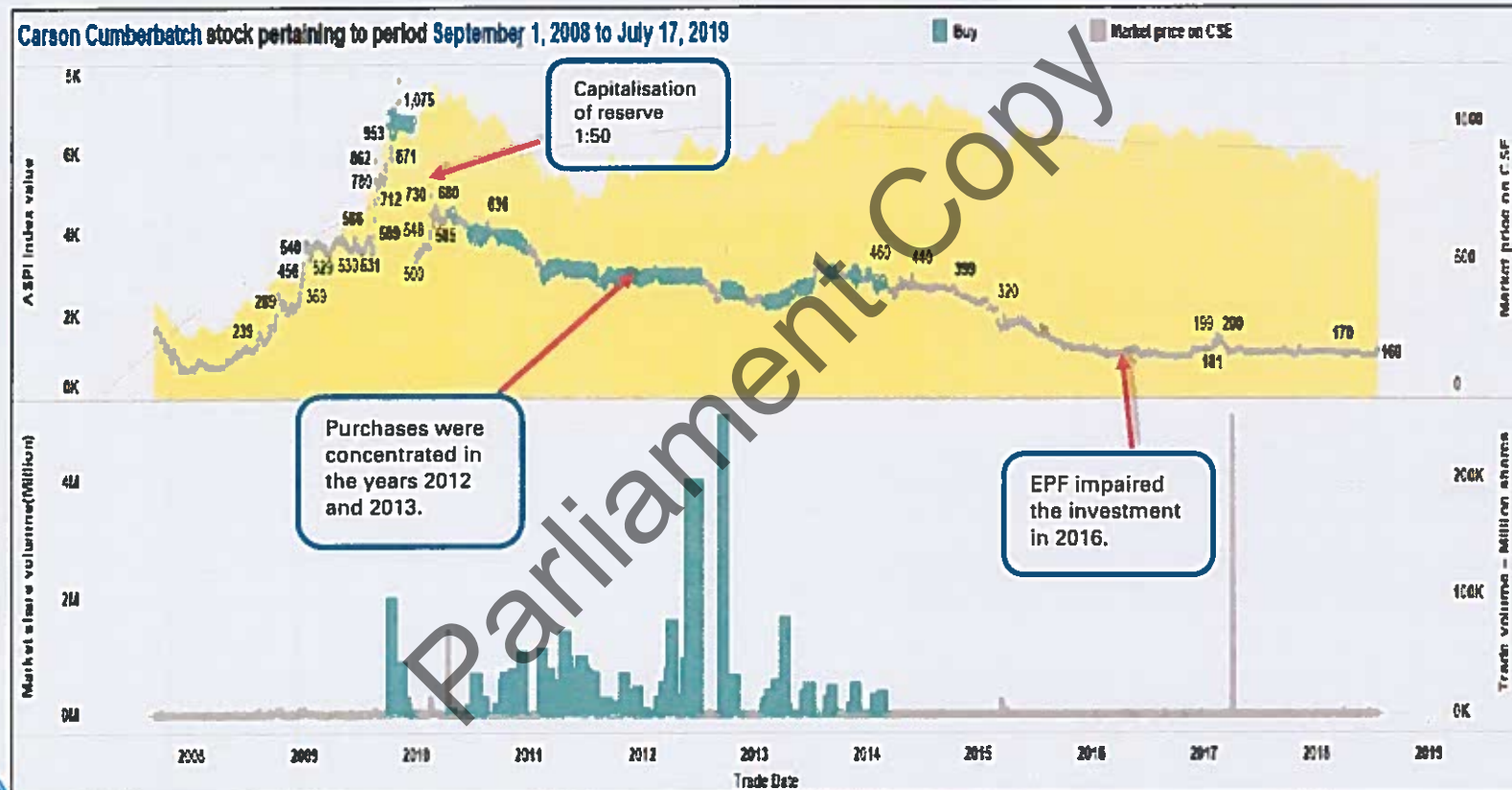
approved by the IC was LKR 445.00 however, MO analysis to determine the price range was not available in the documents provided for review.

9.10.12 Prices of Carson post the corporate action on 17 December 2010 were observed to have risen sharply. Given below is the chart showing reduction in price post the corporate action.

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Chart 24: Price movement in Carson Cumberbatch PLC post capitalization of reserve in 2008 - Period 1 September 2008 to 17 July 2019 along with details of EPF trades:





**Counterparty analysis**

9.10.13 Analysis of the counterparties to the transactions of EPF shows that Thurston Investments Limited and Janashakti Insurance PLC shareholders were the sellers of majority of the purchases made by EPF. The details of the counterparties to these transactions are given below.

**Table 106: Counterparty concentration**

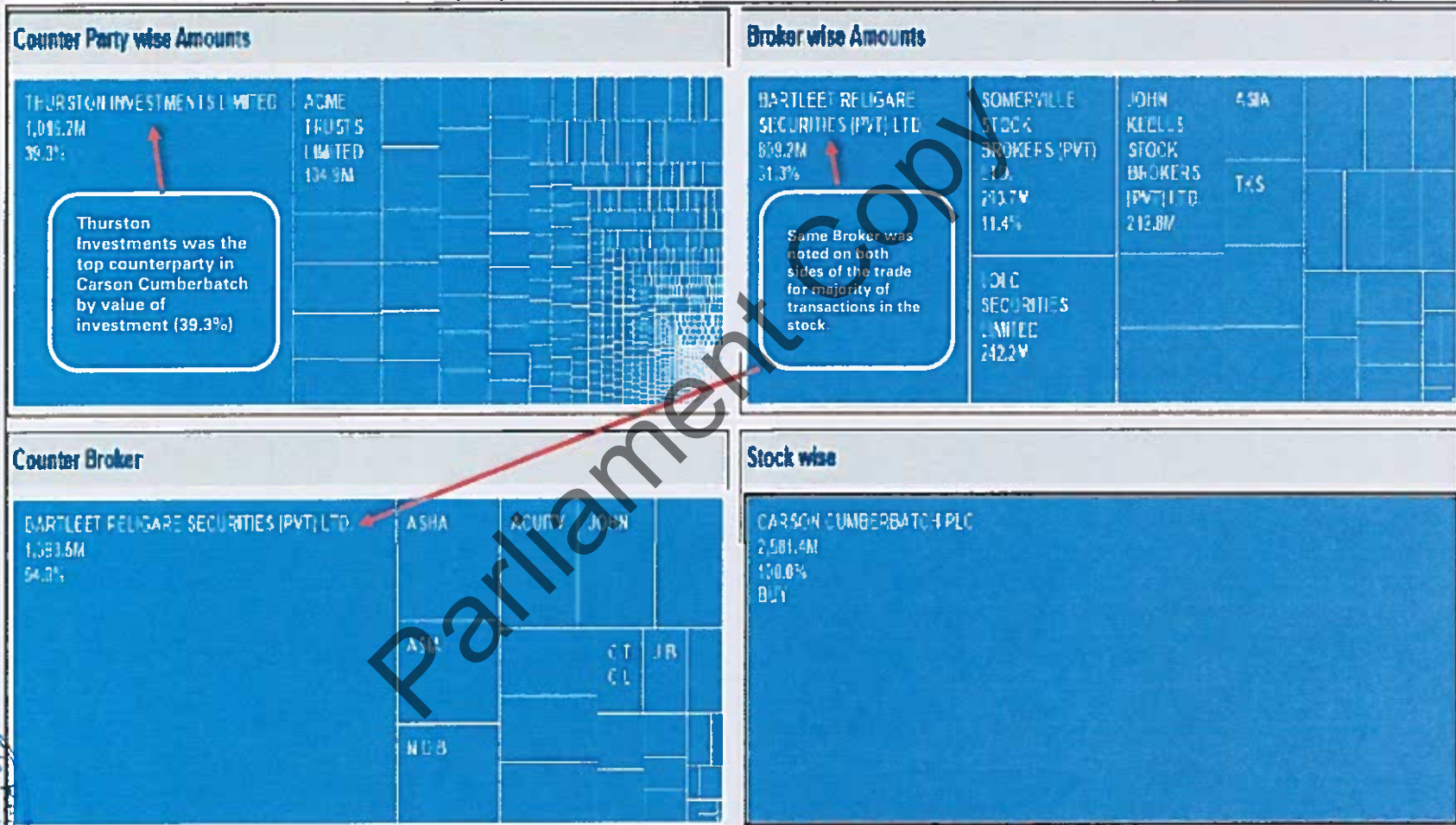
Transaction Date	Quantity (million)	Amount (LKR million)	Name of the major counterparty	EPF Broker	Counterparty Broker
13 October 10	0.10	94.13	Janashakti Insurance PLC shareholders	Somerville Stock Brokers Private Limited	Bartleet Religare Securities Private Limited
20 September 2013	0.25	101.99	Thurston Investments Limited	Bartleet Religare Securities Private Limited	Bartleet Religare Securities Private Limited
20 June 2013	0.20	89.00			
7 Jun 2013	0.19	88.73			
01 July 2013	0.20	88.00			
<b>Total</b>	<b>0.94</b>	<b>461.85</b>			

*Source: CSE market data and KPMG's workings*

9.10.14 The concentration in the counterparty, counterparty broker and EPF broker in the transactions in Carson Cumberbatch PLC is given in the chart below:



Chart 25: Details of concentration of counterparty, EPF broker and Counterparty broker in Carson Cumberbatch PLC.





- 9.10.15 As per a media article dated 28 August 2013<sup>146</sup>, it was indicated that “Thurston Investments Limited”, the largest counterparty to EPF trades (Comprising approximately 40% of total value) in Carson is owned by Mr. Kattar Aloysius, grandfather of Arjun Aloysius<sup>147</sup>. Public domain<sup>148</sup> searches indicated that entity with the same name “Thurston Investments Limited” was incorporated in multiple countries, namely the UK and Hongkong and no unique identifier is available in CSE data to identify whether both entities are same. However, based on Know Your Customer (KYC) records available with Bartleet Religare Securities Private Limited, the identity of Thurston Investments Limited can be ascertained.

**Transaction compliance**

**For addition of the company to ASL**

- 9.10.16 At the time of initial transaction in the Investment portfolio, on 13 October 2010, Carson was not in the ASL for investments. However, neither IC approval nor special approval of the Governor was available in the documents provided for review. No rationale was available since IC and MB ratified inclusion of Carson in the ASL on 15 October 2010 and 29 November 2010 respectively.

**For subsequent transactions in the Investment Portfolio**

- 9.10.17 210 EPF transactions in investment portfolio above LKR 10 million were reviewed for adherence to laid down IPS and ITG. Below mentioned table summarises the transaction not compliant to the laid down policies for all purchase transactions in Investment portfolio above LKR 10 million:

**Table 107: Non-compliant transactions**

Criteria	Count	Value (LKR million)	% of total transactions above 10 million
Transaction not as per IC plan	1	11.14	0.60%
Transaction not pre-approved by the IC	3	135.43	7.28%
<b>Total of non-compliant transactions</b>	<b>4</b>	<b>146.57</b>	<b>7.88%</b>

*Source: Documents provided by EPF and KPMG's workings*

- 9.10.18 Given below is the summary of trades executed by EPF in Carson during the Review Period, deviations noted in the transactions, as against the prevalent IPS and ITG and the personnel executing the transactions.

**Table 108: Summary of trades, policy deviations and EPF personnel**

Trade date	Buy		Deviation, if any	Personnel
	Quantity	LKR/million		

<sup>146</sup> <http://www.vivalanka.com/newspage/536223ai-perpetual-capital-bags-capital-gain-rs-67-5m>

<sup>147</sup> Mr. Arjun Aloysius (Director in Perpetual Capital Private Limited) is the son in law of the ex-Governor Mr. Arjun Mahendran.

<sup>148</sup> No information (Shareholding and Directorship) was available from ROC , Sri Lanka for Thurston Investment Limited



	Buy		Deviation, if any	Personnel
13 October 2010	0.10	94.14	Transactions not pre-approved by the IC	1. Mr. M.S.M. Husam – Dealer 2. Ms. R. Dheerasinghe – Additional Superintendent 3. Mr. L.D.D.Y. Perera – Deputy Superintendent
15 October 2010	0.01	11.14	Transaction executed at a higher price per unit than the approved limit as per the plan	
11 July 2011	0.03	19.97	Transactions not pre-approved by the IC	1. Mr. W.G.R. Harshapriya – Dealer 2. Ms. R. Dheerasinghe – Superintendent 3. Mr. W.G.N.P. Kumari 4. Mr. L.D.D.Y. Perera – Additional Superintendent
12 July 2011	0.04	21.33		

*Source: Deal tickets, settlement trades and trade confirmation*

### Interview Evidence

9.10.19 Interviews were conducted with employees of EPF during the investment period and the following was noted:

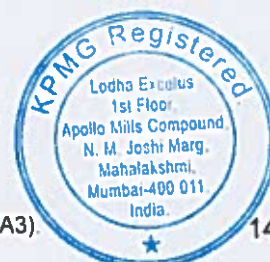
Table 109: Relevant extracts of interviews with EPF employees

Name of the person	Role in the Transaction/in EPF	Explanation provided
Mr. P.D.J. Fernando	Deputy Governor	... <i>"it was a company having good prospects and their performance mainly depends on their investments in Palm oil plantations in Malaysia, but prone to fluctuations arising from volatility in the commodity prices."</i>
Ms. R. Dheerasinghe	Additional Superintendent	No response available
Mr. W.G.R. Harshapriya	Assistant Superintendent	Mr. Harshapriya stated that - <i>"Carson Cumberbatch was not recommended by the MO for investment"</i>  <u>Views on Thurston Investments Limited</u> <i>"during his previous tenure with DIMO, he had learnt of a certain instance where Thurston Investments had tried acquiring a substantial stake in DIMO through Hayley's PLC. However, in his knowledge this transaction did not get through."</i>

Name of the person	Role in the Transaction/in EPF	Explanation provided
Mr. M.S.M. Husam	Assistant Superintendent	KPMG questioned how the transactions were executed that were not within the weekly investment plan. <i>"Mr Husam replied that the same was intimated to him and the investments would be subsequently ratified by the IC. Mr Husam replied that he does not know the names of counterparties while executing cross transactions"</i>
Mr. L.D.D.Y. Perera	Additional Superintendent	KPMG questioned whether there were any other cases where investments were not with prior approval of the IC. <i>... " does not remember the cases, there could be directions from the top management for those cases." ...</i> <i>... "there were certain instances where counterparties were known, and brokers would reveal the counterparties"</i>
Mr. B.M.W.S. Balasooriya	Assistant Superintendent	Not associated with equity and handled fixed income dealing hence did not offer any comments

**Source: Interview with the employees**

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## 9.11 Ceylon Hotel Corporation PLC

### Background of the company

- 9.11.1 Ceylon Hotels Corporation PLC (Ceylon Hotels) was incorporated in the year 1966. Ceylon Hotels is engaged in the business of hotel services. The Company manages its subsidiaries, which are engaged in the hospitality business, refreshment, entertainment and recreation of tourists. It was listed on the CSE on 1 January 1967<sup>149</sup>.

### EPF's investment in Ceylon Hotels Corporation PLC

- 9.11.2 EPF started investing in Ceylon Hotels in 2010. On 5 August 2010, MB ratified the first transaction executed on 21 June 2010. The summary of EPF's transactions for Ceylon Hotels in the 'Trading' and 'Investment' portfolio during the Review Period is set out in the table below.

**Table 110: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	-	-	-	-	-	-
Investment	19	20.95	721.76	11	0.41	17.88
<b>Total</b>	<b>19</b>	<b>20.95</b>	<b>721.76</b>	<b>11</b>	<b>0.41</b>	<b>17.88</b>

*Source: SAP and CSE data provided by EPF*

- 9.11.1 Summary of all the transactions above LKR 10 million is given below and the list of all transactions above LKR 10 million are provided in Annexure 30.

**Table 111: Transactions above LKR 10 million**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	-	-	-	-	-	-
Investment	3	20.58	713.72	-	-	-
<b>Total</b>	<b>3</b>	<b>20.58</b>	<b>713.72</b>	<b>-</b>	<b>-</b>	<b>-</b>

*Source: SAP and CSE data provided by EPF*

### Losses incurred by EPF in Ceylon Hotels

- 9.11.2 EPF incurred a total impairment loss of LKR 377.69 million in Ceylon Hotels. The impairment loss was recorded in the books of accounts of EPF in 2017.
- 9.11.3 The entire loss of LKR 377.69 million was incurred by EPF on its Investment portfolio. On review of the transaction pattern, it was noted that 96.99% of the purchases in the Investment portfolio were concentrated during the year 2010, majority of which was contributed by the initial purchase made by EPF on 21 June 2010. Details of the transaction are mentioned below:

**Table 112: Concentration of transactions**

<sup>149</sup> Source: Colombo Stock Exchange website ([www.cse.lk](http://www.cse.lk))





Date	Quantity (million)	Price (LKR)	Transaction value (LKR million)	% transaction value of EPF to market value (In the shares on that day)	Type of transaction	% transaction value to total purchases during Review Period
21 June 2010	20.00	35.00	700.00	95.73%	Crossing	96.99%

Source: CSE data and KPMG's workings

**Price and volume analysis**

9.11.4 Given below is price and volume chart for the shares during the period 5 January 1998 to 29 December 2017:

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Chart 26: Price movement in Ceylon Hotels Corporation PLC during 5 January 1998 to 29 December 2017 along with details of EPF trades:

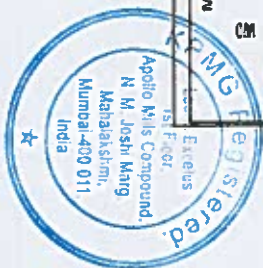
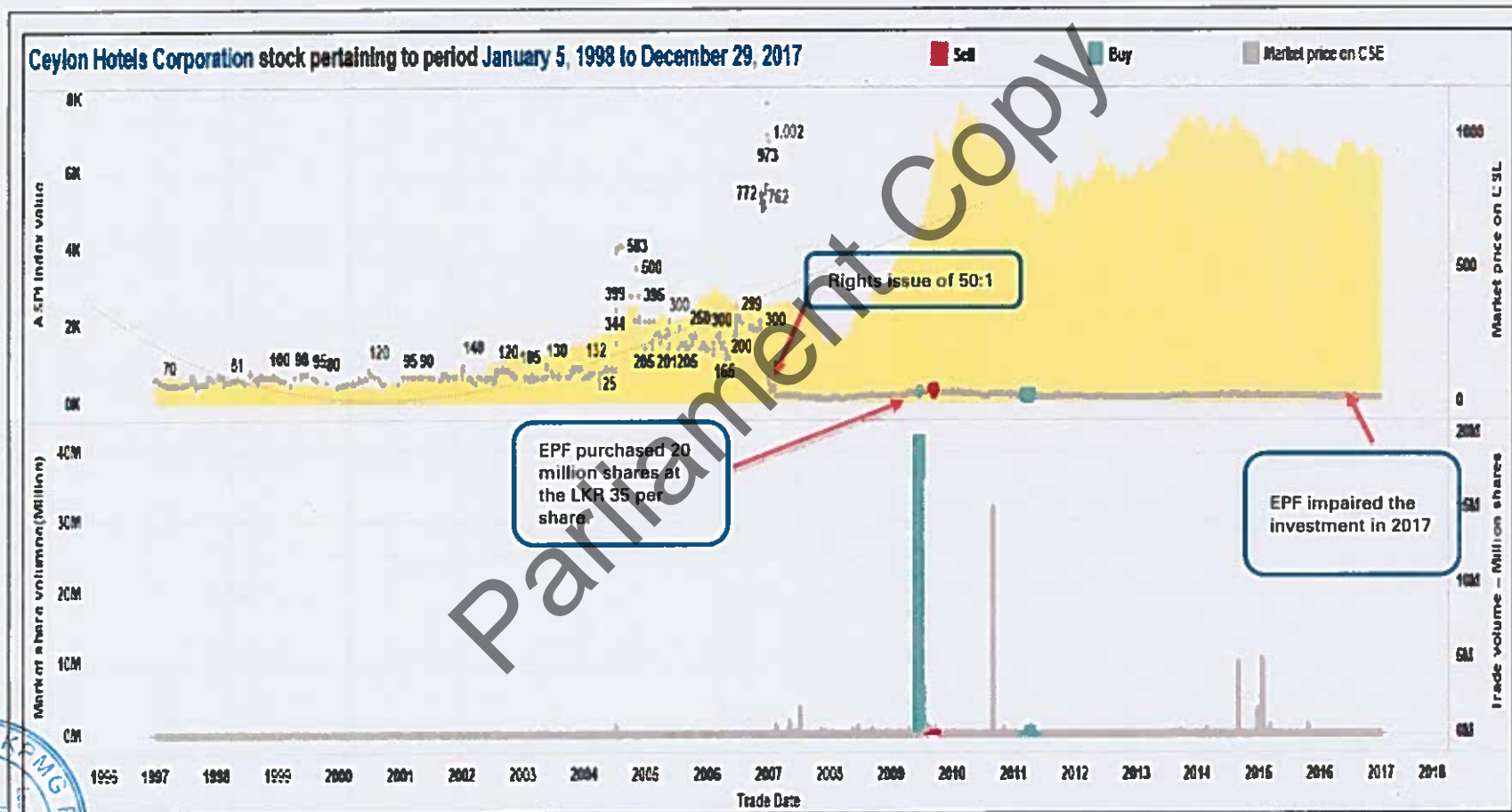
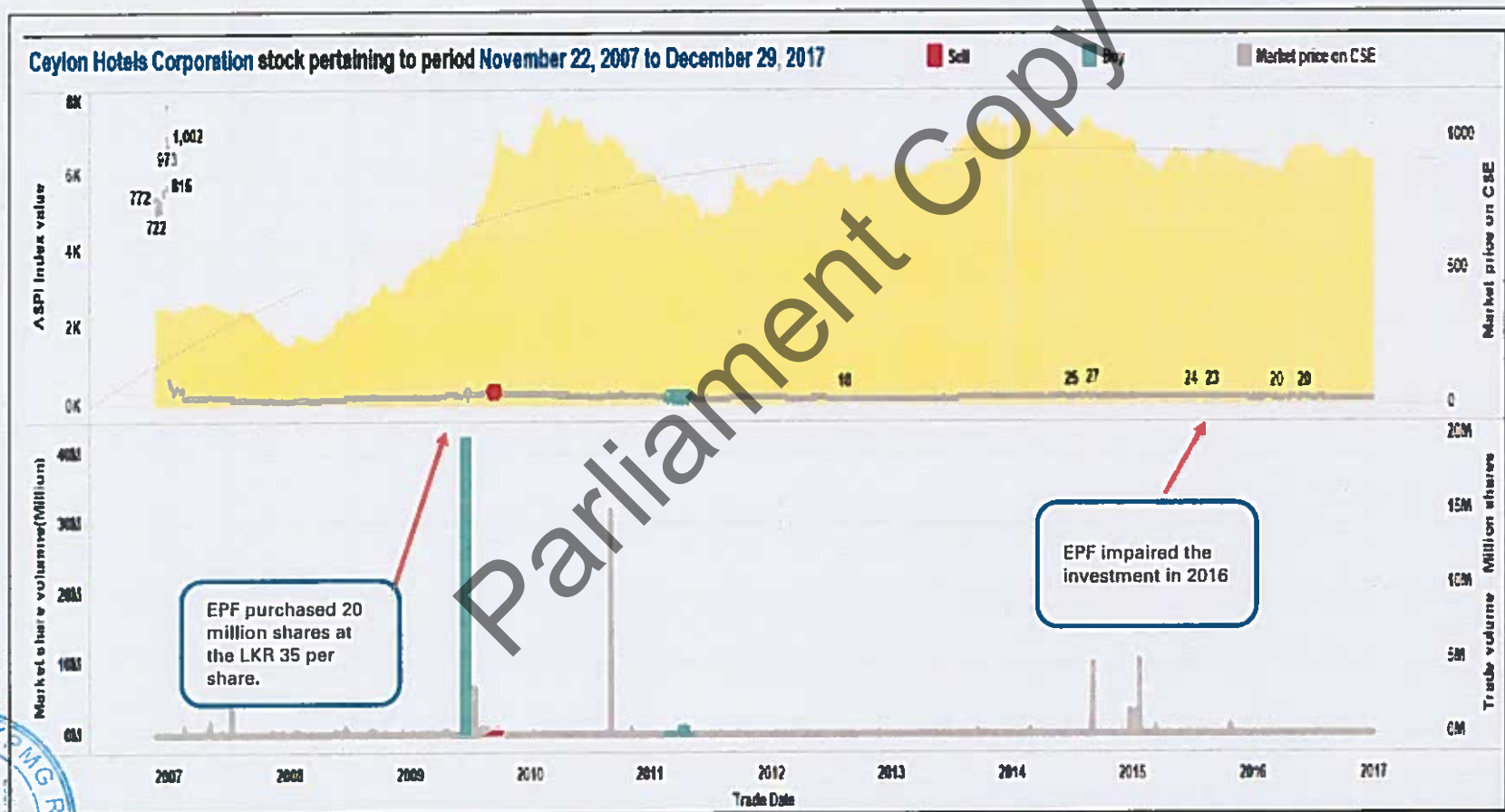




Chart 27: Price movement in Ceylon Hotels Corporation PLC post corporate action during 31 March 2008 to 29 December 2017 along with details of EPF trades:





9.11.5 From the above chart, the following was noted:

- The share price of Ceylon Hotels scrip gradually rose from LKR 11 on 6 January 2009 to LKR 34 on 17 June 2010 (Just prior to EPF purchase on 21 June 2010). The volumes in the scrip were steady during this period. EPF bought 20 million shares and contributed significantly to the market volumes on 21 June 2010. The price chart for the period 22 June 2010 to 31 December 2010 indicates that the ASPI and the price for the share was in line and share price was between LKR 32.50 to LKR 46.00.
- The movement in the price 30 days prior and after the transaction is given in the table below:

**Table 113: Market price movement 30 days prior and post the transaction**

Transaction Date	Period <sup>150</sup>	Date from	Date to	Minimum price (LKR)	Maximum price (LKR)	Average price (LKR)
21 June 2010	- 30 days	5 May 2010	17 June 2010	30.25	34.50	32.33
	Price on 21 June 2010			33.75	36.75	35.25
	+30 days	22 June 2010	3 August 2010	33.00	37.75	35.26

*Source: CSE market data*

9.11.6 Analysis of price movement indicated that the price at which EPF executed the trade was lower by 0.71%, than the average market price on the date of EPF trade. Transaction was not pre-approved by the IC and no analysis of MO was available to determine the pricing for the purchase transaction.

#### **Counterparty analysis**

9.11.7 Analysis of the counterparties to the above transaction shows that The Galle Face hotel company Ltd. was the seller for 20 million shares (100%) purchased. Details of the counterparty to the transaction are given below:

**Table 114: Counterparty details**

Trade Date	Quantity (million)	Amount in LKR million	Name of the counterparty	EPF Broker	Counterparty broker
21 June 2010	20.00	700.00	The Galle face Hotel Company Ltd.	Asia Securities Private Limited	Nation Lanka Equities Private Limited

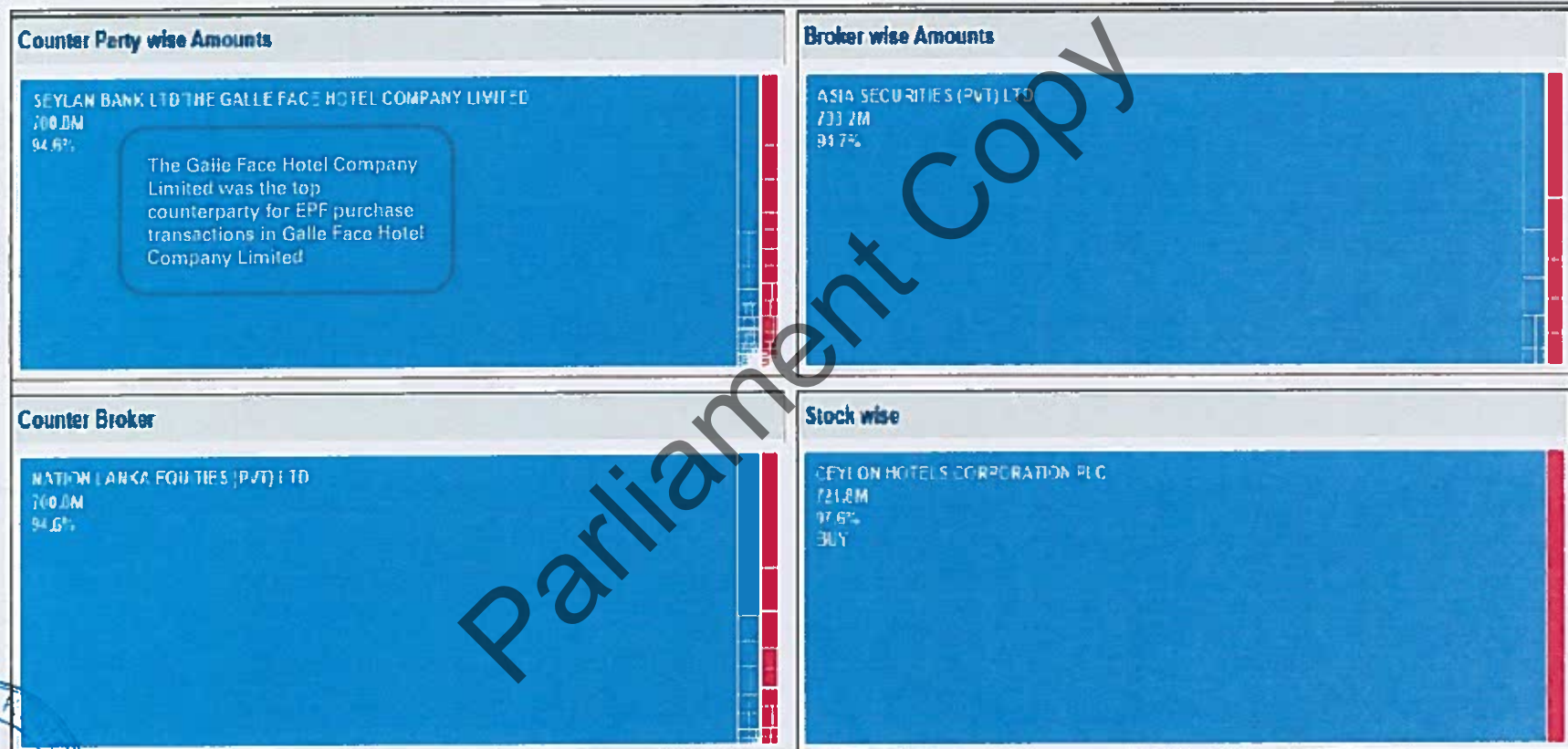
*Source: CSE data*

9.11.8 The concentration in the counterparty, counterparty broker and EPF broker in the transactions in Ceylon Hotels is given in the chart below:

<sup>150</sup> Price analysis is based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction



Chart 28: Details of concentration of counterparty, EPF broker and Counterparty broker in Ceylon Hotel Corporation PLC





- 9.11.9 No communication between EPF personnel and the broker could be identified since emails and voice records for this time-period are unavailable
- 9.11.10 On review of ROC documents for Galle Face Hotels Company Limited, it was noted that Ceylon Hotels Corporation and Galle Face hotels Company Limited are connected entities. During the year of investment, 2010 the following directors and shareholders were common:

**Table 115: Common director and shareholder**

Name	Galle Face Hotels		Ceylon Hotels	
	Director	Shareholder	Director	Shareholder
Sanjeev Gardiner	✓	✓	✓	✓
Lakshman Samarasinghe	✓	✓	✓	✓
Dennis Jesuthan Aloysius	✓	X	✓	X

Source: ROC documents and company financials

**Transaction compliance**

**For addition of the Company to ASL**

- 9.11.11 EPF started investing in Ceylon Hotels on 21 June 2010. Following are the details of approvals obtained:

**Table 116: Approvals for adding company to ASL**

Portfolio type	IC approval	MB approval	Governor approval
Investment	Not available	Not available	Not available

Source: IC and MB minutes

- 9.11.11.1 No prior approval of the IC and MB or Governor was obtained before the investment was made. No rationale for investment was available, since the investment was ratified in the IC minute dated 23 June 2010 stating "As per the instructions of the management EPF purchased 20 mn shares of Ceylon Hotel Corporation at Rs. 35.00 per share on 21 June 2010." MB ratified the investment on 5 August 2010 and approved inclusion of Ceylon Hotels in the ASL. Refer Exhibit 16 for MB minutes.

**Subsequent transaction review**

- 9.11.12 EPF's transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG. Out of three transactions above LKR 10 million, the following non-compliances to the laid policy and procedures were noted:

**Table 117: Non-compliant transactions**

Criteria	Count	Value (LKR million)	% of total
Transaction not pre-approved by the IC	1	700.00	98%

Source: Documents provided by EPF and KPMG's workings

**Exposure Limits**



- 9.11.13 EPF invested 20.00 million shares amounting to LKR 700.00 million on 21 June 2010, which was 11.64% of the issued share capital of Ceylon Hotels. This investment exceeded 7.99% of the issued share capital of the company, violating the limit as per ITG 2007. As per ITG 2007, post recommendation of MO, IC has the authority to exceed the limit. However, no prior approval of IC was obtained before the above execution. A summary of EPF's holding in Ceylon Hotels is mentioned below:

**Table 118: Exposure limits of EPF in Ceylon Hotels**

Date	EPF exposure
21 June 2010	11.64% <sup>151</sup>
31 March 2011	11.40% <sup>152</sup>
31 March 2012	11.58% <sup>152</sup>
18 April 2012	11.93% <sup>153</sup>

*Source: IC minutes, company financials and KPMG's working*

- 9.11.14 As per IPS 2011, the EPF shareholding in a company shall not exceed 10% of the issued share capital investment in voting shares. Prior approval of the IC and MB was required for exceeding the limit. In the IC meeting dated 18 April 2012, IC was informed of the companies in which the EPF exposure exceeded 10%. Ceylon Hotels was one of the companies and accordingly, the IC instructed MO to obtain MB ratification for such companies.
- 9.11.15 Mentioned below is the summary of trades executed by EPF in Ceylon Hotels during the Review Period, deviations noted in the transactions, as against the prevalent IPS and ITS and the personnel executing the transactions.

**Table 119: Summary of trades, policy deviations and EPF personnel**

Date	Buy		Deviation, if any	Personnel
	Quantity (million)	LKR/million		
21 June 2010	20.00	700.00	Transaction not pre-approved by the IC	Deal ticket, settlement sheet, order placement sheet and trading approval forms not available in the documents provided for review

<sup>151</sup> KPMG calculation based on the issued share capital in the Annual report of Ceylon Hotels for the period 2011-12

<sup>152</sup> Source: Annual report of Ceylon Hotels for 2011-2012

<sup>153</sup> Source: IC minutes dated 18 April 2012

**Interview Evidence**

9.11.16 Interviews were conducted with the employees existing at the time of investment.

**Table 120: Relevant extracts of the Interviews with EPF employees**

Name of the person	Role in the transaction/ or in EPF	Explanations provided
Mr. M.J.S. Abeysinghe	Superintendent of EPF at the time of the transaction	<p>....<i>"usually Investment Committee analyzes the investment and the rationale must have been documented in the board paper wherein there was a strategic movement to venture into hotel sector and make investments"</i>.</p> <p>....<i>"IC would have invested and minuted the instructions if any and does not recollect the events that transpired"</i></p>
Mr. L.D.Y. Perera	Deputy Superintendent	<p>....<i>"does not recall the events that transpired but some decisions were taken from the top management"</i></p> <p>....<i>"top management".. " would mean the Governor and the Deputy Governor"</i></p>
Mr. W.G.R. Harshapriya	Assistant Superintendent	<p><i>"...as per instructions of the management the transaction would have been executed."</i></p> <p>....<i>"investments that were not in the weekly investment plan"... "would have been instructed to S/EPF or Additional S/EPF or Deputy S/EPF and would have been subsequently ratified by the investment committee"</i></p>
Mr. P.D.J. Fernando	Deputy Governor	<p><i>"...it was in line with the tourism hub concept. The Ceylon Hotels Corporation was a government corporation. However, it was not managed properly. While having hotels and properties in scenic locations. However, during the immediate post war period, it was thought to have a lot of potential to contribute to both domestic and foreign. tourists and thereby turn it to reasonable profit margin."</i></p> <p>....<i>"management approval" would mean the S/EPF and the line of authority within EPF"</i></p>

**Source: Interviews conducted with the employees**



## 9.12 Ceylon Guardian Investments PLC

### Background

9.12.1 Ceylon Guardian Investment Trust PLC (CGIT) was incorporated in 1951. CGIT is the holding company of the investment business of Carson Cumberbatch Group and is an investment house engaged in providing portfolio management and investment solutions to investors. The company was listed on the CSE on 1 January 1951.

### EPF's investment in CGIT

9.12.2 EPF started investing in CGIT in 2013. CGIT was added in the ASL through an IC decision dated 1 August 2013. EPF received a dividend of LKR 38.73 million during the Review Period.

9.12.3 Summary of EPF's transactions in CGIT in the 'Trading' and 'Investment' portfolio during the Review Period is set out in the table below.

**Table 121: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	7	0.49	84.74	8	0.26	51.03
Investment	67	2.71	510.70	-	-	-
<b>Total</b>	<b>74</b>	<b>3.20</b>	<b>595.44</b>	<b>8</b>	<b>0.26</b>	<b>51.03</b>

Source: SAP data provided by EPF

9.12.4 Summary of all the transactions above LKR 10 million is set out below and the list of all transactions above LKR 10 million is provided in Annexure 31.

**Table 122: Transactions above LKR 10 million during the period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	4	0.47	82.14	3	0.21	41.96
Investment	19	2.06	392.21	-	-	-
<b>Total</b>	<b>23</b>	<b>2.53</b>	<b>474.35</b>	<b>3</b>	<b>0.21</b>	<b>41.96</b>

Source: SAP data provided by EPF

### Impairment losses incurred by EPF in CGIT

9.12.5 EPF incurred a total impairment loss of LKR 282.45 million in CGIT on 31 December 2017.

9.12.6 The entire loss of LKR 282.45 million was incurred by EPF in its investment portfolio. Top purchases contributing to 54.69% of the Investment portfolio are detailed below:

**Table 123: Concentration of transactions**



Date	Purchase quantity (million)	Price (LKR)	Transaction value (LKR million)	% Transaction value of EPF to market value (In the shares on that day)	Type of transaction	% transaction value to total purchases during Review Period
14 November 2013	0.57	200.00	114.83	100%	Crossing	22.49%
	0.03	197.36	5.17		Normal	1.01%
4 October 2013	0.51	198.65	102.30	99.72%	Normal	20.03%
18 June 2015	0.20	185.00	37.00	93.72%	Crossing	7.25%
	0.11		19.98		Normal	3.91%
<b>Total</b>	<b>1.42</b>		<b>279.28</b>			<b>54.69%</b>

**Price and volume analysis**

9.12.7 Analysis of price and volume data in the shares of CGIT along with ASPI trend shows that the purchases of EPF above LKR 10 million in the Investment portfolio were concentrated during 2013 and 2015. Given below is price and volume chart for the shares during the period 1 June 1998 to 29 December 2017:

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Chart 29: Details of concertation of counterparty, EPF broker and Counterparty broker in Ceylon Guardian Investment Trust

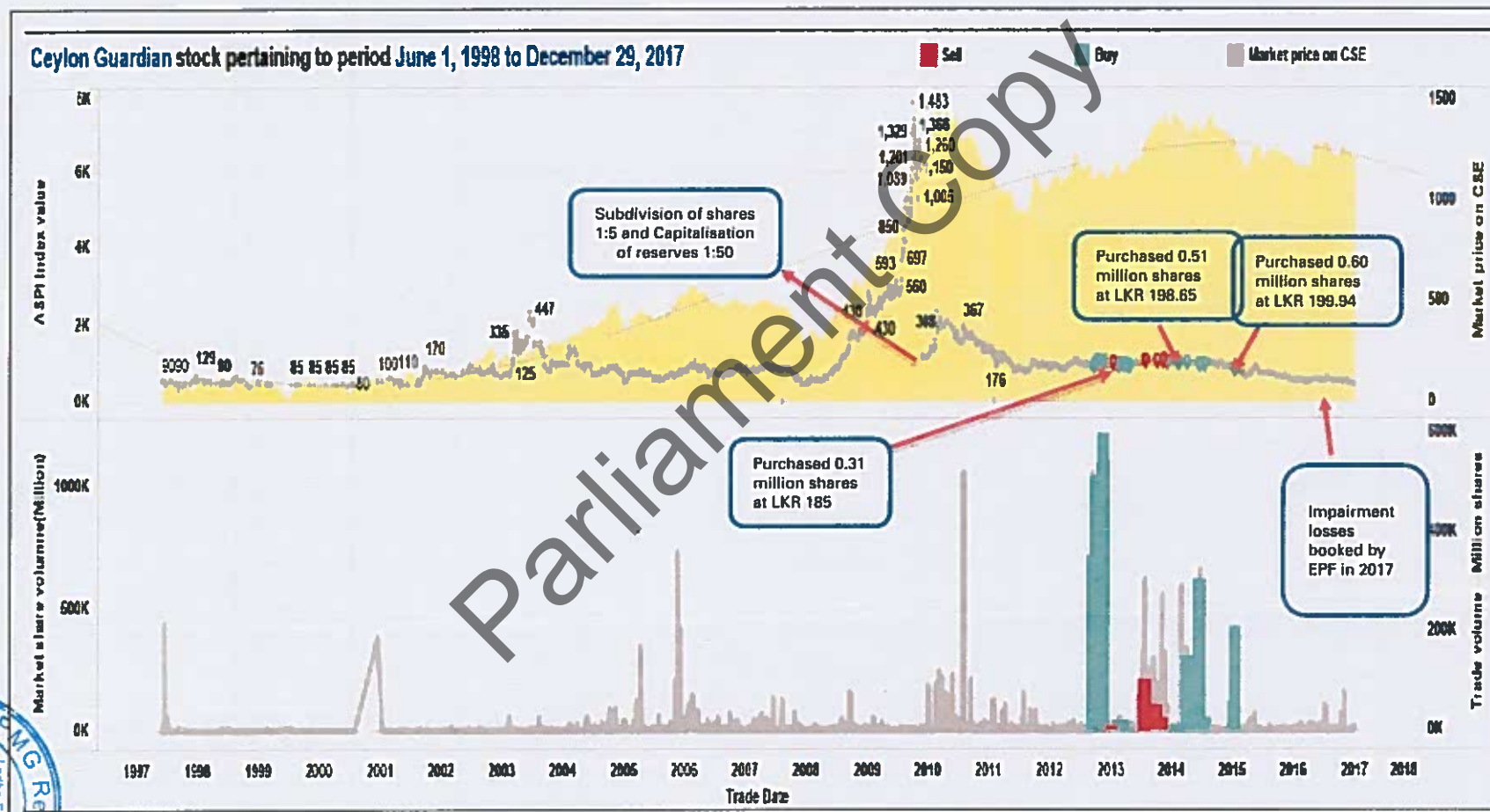
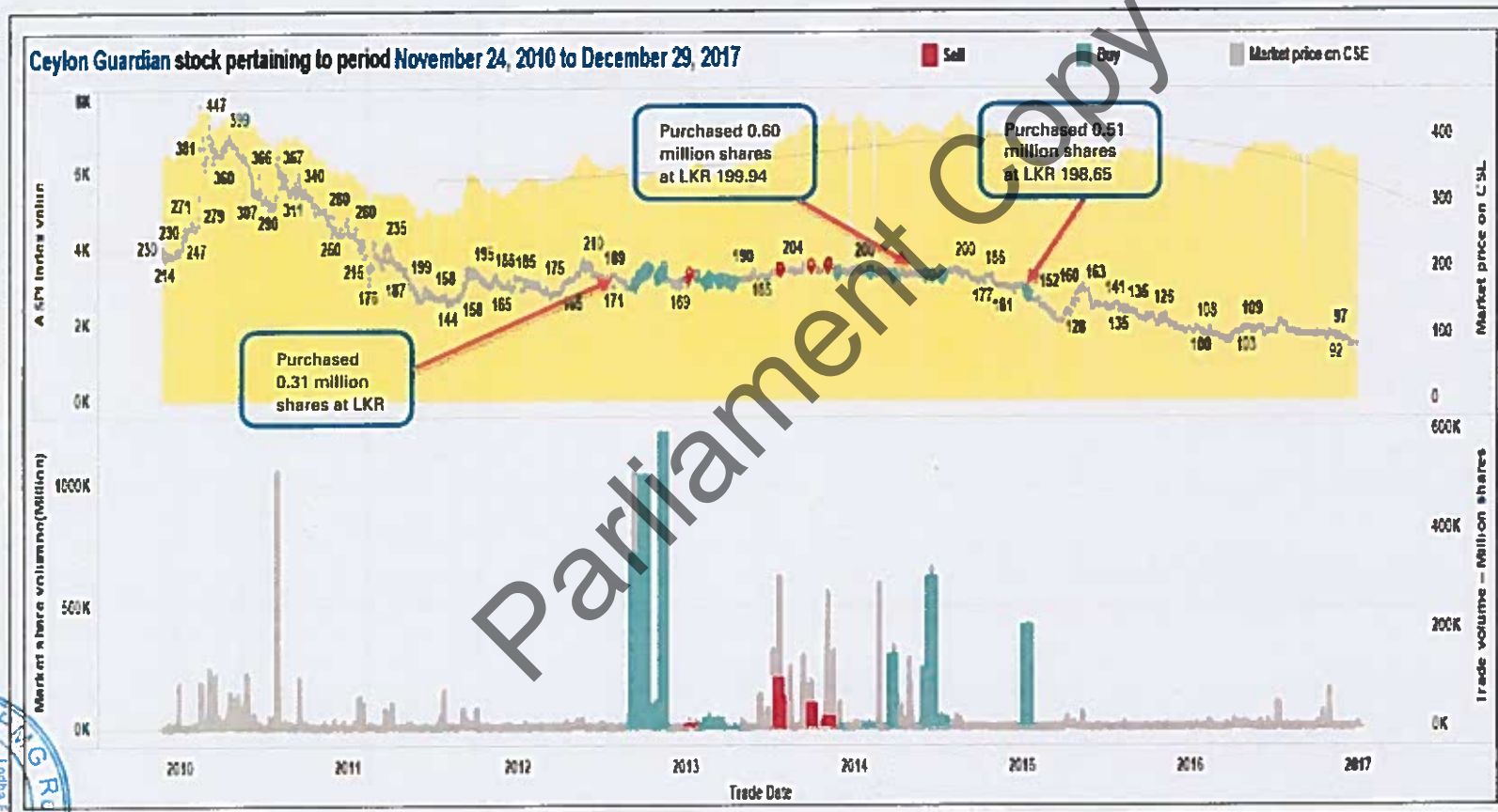




Chart 30: Price movement in Ceylon Guardian PLC post corporate action during the period 24 November 2010 to 29 December 2017 along with details of EPF trades





9.12.8 From the above chart, the following was noted:

- Market price of Ceylon Guardian scrip was in the range of LKR 144 to LKR 260, during the period June 2012 - 2015. However, after majority of the quantity was purchased by EPF in its Investment portfolio by 2015, the price gradually declined to LKR 85 by 29 December 2017, resulting in impairment loss to EPF
- The movement in the price 30 days prior and after the transaction is given in the table below:

**Table 124: Market price movement 30 days prior and post the transactions**

Transaction Date	Period <sup>154</sup>	Date from	Date to	Minimum price (LKR)	Maximum price (LKR)	Average price (LKR)
4 October 2013	- 30 days	19 August 2013	2 October 2013	160.10	199.00	177.87
	Price on 4 October 2013			195.00	205.90	200.45
	+30 days	7 October 2013	29 November 2013	178.60	205.90	188.75
14 November 2013	- 30 days	18 September 2013	13 November 2013	178.60	205.90	190.54
	Price on 14 November 2013			193.50	199.90	196.70
	+30 days	15 November 2013	6 January 2014	166.10	198.90	178.57
18 June 2015	- 30 days	17 June 2015	24 April 2015	184.00	192.00	188.53
	Price on 18 June 2015			185.00	189.00	187.00
	+30 days	19 June 2015	6 August 2015	183.00	197.90	188.70

Source: Market price data obtained from CSE website

9.12.9 From the analysis of price movement, it was observed that the price at which EPF executed the trade was

- lower by 0.89% than the average market price on 4 October 2013
- higher by 1.68% than the average market price on 14 November 2013
- lower by 1.07% than the average market price on 18 June 2015.

9.12.10 The middle office conducted a detailed analysis on 16 May 2013 when IC approved the company to be included in the ASL. However, analysis of price at the time of purchases on 4 October 2013, 14 November 2013 and 18 June 2015 were not available in the respective weekly plans.

<sup>154</sup> Price analysis is based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction

**Counterparty analysis**

9.12.11 EPF purchased 2.71 million shares of CGIT amounting to LKR 510.70 million in the investment portfolio during the Review Period. On review of data received from the CSE crossing transactions, major counterparties and broker concentration was identified.

9.12.11.1 Table 125: Details of select counterparties for concentrated transactions

Date	Portfolio	Name of the counter party	Number of shares (million)	Amount (million)	% of total buy value	EPF Broker name	Counterparty broker name
14 November 2013	Investment	Perpetual Capital Private Limited	0.57	114.83	22.48 <sup>156</sup> %	Bartleet Religare Securities (Pvt) Limited	Bartleet Religare Securities (Pvt) Limited
18 June 2015	Investment	Mr. H.A. Van Starrex	0.20	37.00	7.25%	Bartleet Religare Securities (Pvt) Limited	Bartleet Religare Securities (Pvt) Limited
4 October 2013	Investment	Mercantile investment and finance PLC	0.31	62.00	12.14%	Capital Alliance Securities (Pvt) Limited and J B Securities	J.B. Securities
<b>Total</b>			<b>1.08</b>	<b>213.83</b>	<b>41.87%</b>		

Source: Data received from the Colombo Stock Exchange

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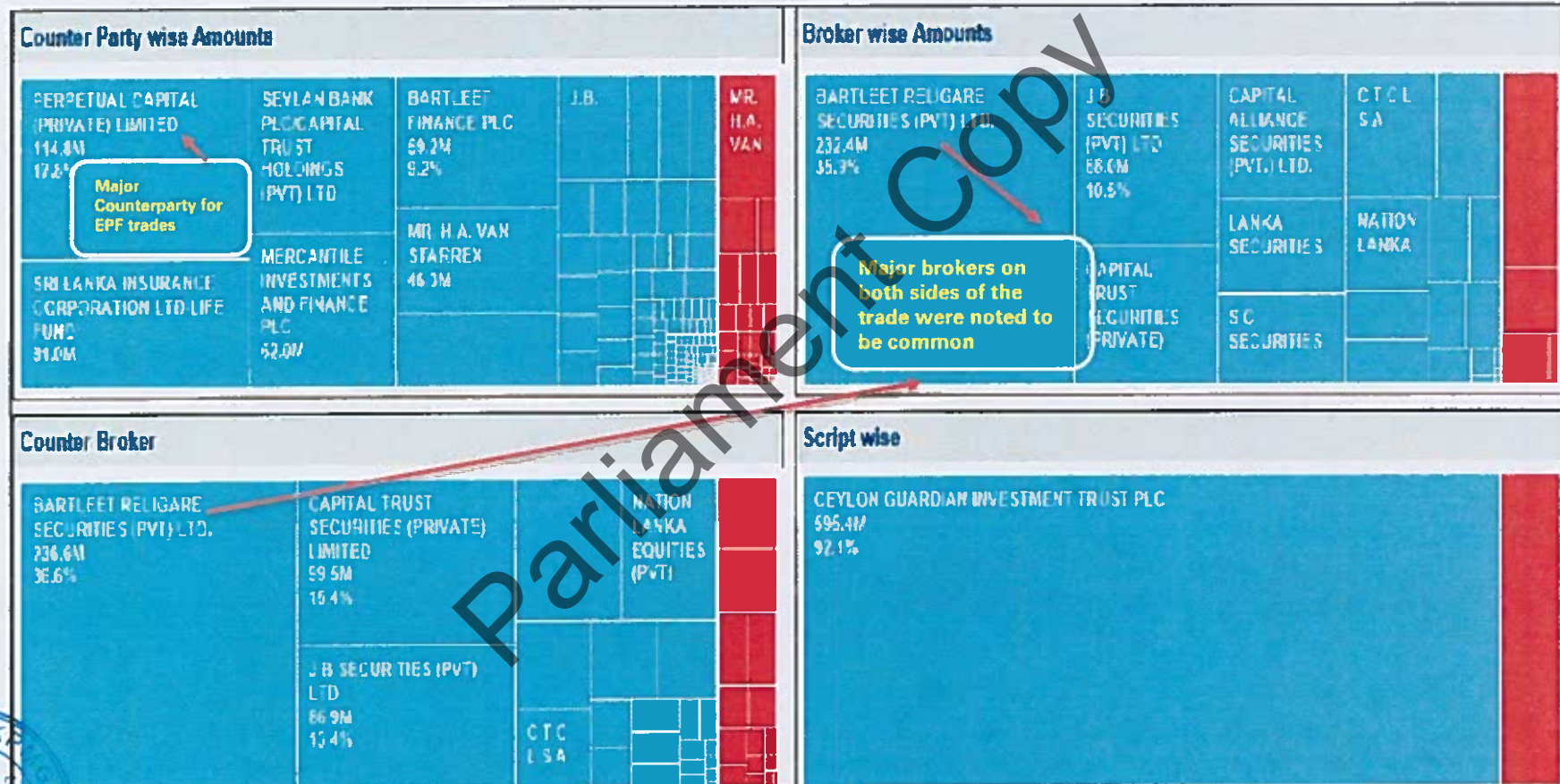
<sup>156</sup> This is a percentage of the purchases made in the investment portfolio







Chart 31: Details of concentration of counterparty, EPF broker and Counterparty broker in Ceylon Guardian Investment Trust PLC





9.12.11.2 Analysis of the CSE data shows the following major counterparties of EPF trades:

**Table 126: Counterparty details**

Sr No	Name of the counterparty	Transaction value in LKR/million	% transaction value to total buy transaction value
1	Perpetual Capital (Private) Limited	114.84	19.29%
2	Seylan Bank PLC/ Capital Trust Holdings (Private) Ltd	63.22	10.62%
3	Mercantile Investment and Finance PLC	62.00	10.41%
4	Bartleet Finance PLC	59.17	9.94%
5	Mr. H.A. VAN Starrex	46.33	7.78%
6	SRI Lanka Insurance Corporation Ltd- Life Fund	46.19	7.76%
<b>Total</b>		<b>391.75</b>	<b>65.80%</b>

*Source: Data received from the Colombo Stock Exchange*

9.12.12 Analysis of the CSE data shows the following top five brokers:

**Table 127: Broker details**

Sr No	Name of the broker	Transaction value in LKR million	% transaction value to total transaction value
1	Bartleet Religare Securities (Pvt) Ltd.	232.38	35.95%
2	J B Securities (Pvt) Ltd	67.98	10.52%
3	Capital Trust Securities (Private) Limited	53.94	8.34%
4	Softlogic Stockbrokers (Private) Limited	53.88	8.33%
5	Capital Alliance Securities (Pvt.) Ltd.	44.54	6.89%
<b>Total</b>		<b>452.72</b>	<b>70.03%</b>

*Source: Data received from the Colombo Stock Exchange*

9.12.13 The purchase of 0.57 million shares amounting to LKR 114.84 million on 14 November 2013 was a crossing transaction with PCPL and common broker Bartleet Religare Securities Private Limited. PCPL with its stake of 0.70%<sup>156</sup> appeared in the top 20 shareholders list of CGIT in 2012-13, whereas in 2013-14, its stake was reduced considerably, pursuant to sale of shares not forming part of the top twenty shareholders.

9.12.14 As per the information available in the PCOI report, it was noted that Ms. Siromi Wickremesinghe, sister of Ex-Governor Mr. Ajith Nivard Cabraal was appointed as a director in PCPL on 23 December 2013, i.e. approximately one month after the said transaction.

9.12.15 On review of the Annual report of CGIT for the year 2014-15 and 2015-16, it was noted that the shareholding of Mr. H.A. Van Starrex reduced from 1.10% to 0.71%. EPF purchased 0.25 million shares amounting to LKR 46.33 million from Mr. H.A. Van Starrex, of which 0.20 million shares amounting to LKR 37 million was a crossing arrangement.

<sup>156</sup> Source: Annual report of CGIT for 2012-13 and 2013-14



No adverse media reports were noted for Mr. H.A.Van Starrex as per the information available in media articles<sup>157</sup>.

### Transaction Compliance

#### For addition of the company to ASL

9.12.16 The following non-compliances were noted for addition of the company to ASL:

**Table 128: Approval for adding company to ASL**

Portfolio type	IC approval	MB approval	Governor approval
Investment	1 August 2013	27 August 2013	Not applicable
<i>Source: IC and MB minutes</i>			

9.12.17 On 16 May 2013, the IC minutes only mentioned about inclusion of CGIT in the ASL without specifying whether the inclusion was meant to be in the Trading portfolio or Investment portfolio *“recommended to include the company in the list of approved companies of EPF”*. However, as per the ITG 2011<sup>158</sup>, the companies which are approved in the Investment portfolio shall also be included in the ASL of trading portfolio.

9.12.18 A detailed analysis and rationale were however provided for consideration of investment in CGIT in the IC minutes dated 16 May 2013 and 1 August 2013. All the transactions of CGIT were observed to be executed with the approval of the IC and within the approved IC plan.

### Interview Evidence

9.12.19 Interviews were conducted with the employees existing at the time of investment.

**Table 129: Relevant extracts of the Interviews with EPF employees**

Name of the person	Role in the Transaction/in EPF	Explanation provided
Mr. W.G.R. Harshapriya	Assistant Superintendent	<i>“he did not perform the analysis for the Ceylon Guardian investment Trust PLC.”</i>
Ms. R. Dheerasinghe	Assistant Governor	No response available
<i>Source: Interview with CBSL employees</i>		

<sup>157</sup> Public domain searches were conducted based on specific keywords

<sup>158</sup> Approved by the Monetary board on 30 December 2012





## 9.13 John Keells Holding Limited

### Background

9.13.1 John Keells Holdings PLC (JKH) was established in 1979. JKH has a diversified business of hospitality, private sector owned transportation business, port and marine fuel services, IT solutions, manufacturing of food and beverages, tea broking to stock broking, banking and real estate. It was listed on CSE on 23 October 1986<sup>159</sup>.

### EPF's investment in JKH

9.13.2 EPF started investing in the shares of JKH in the year 1998. Post approval from MB on 7 April 1998, the first investment was made on 30 April 1998<sup>160</sup>. Summary of EPF's transactions in JKH in the 'Trading' and 'Investment' portfolio during the Review Period is set out in the table below:

**Table 130: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	212	17.20	3,365.50	153	13.24	2508.26
Investment	586	66.46	14,772.34	464	91.20 <sup>161</sup>	16,073.33
<b>Total</b>	<b>798</b>	<b>83.66</b>	<b>18,137.84</b>	<b>617</b>	<b>104.44</b>	<b>18,581.59</b>

Source: SAP data

9.13.3 Summary of all the transactions above LKR 10 million is given below and the list of all transactions above LKR 10 million are provided in Annexure 32.

**Table 131: Transactions above LKR 10 million**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	126 <sup>162</sup>	16.33	3,248.48	108 <sup>163</sup>	12.43	2,355.25
Investment	291	61.80	14,278.60	106	81.69	15,092.19
<b>Total</b>	<b>417</b>	<b>78.13</b>	<b>17,527.08</b>	<b>214</b>	<b>94.12</b>	<b>17,447.44</b>

### Realized losses incurred by EPF in JKH

9.13.4 EPF incurred a total trading loss of LKR 228.36 million in JKH. The years in which EPF realised trading loss in its books are shown in below table:

**Table 132: Trading loss recorded by EPF as per weighted average method:**

Year	Amount of impairment (in million)
2008	(4.85)
2015	(127.98)

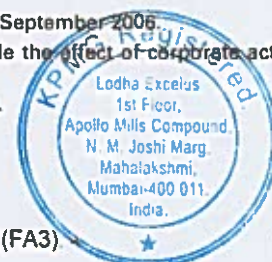
<sup>159</sup> Source: Colombo Stock Exchange website ([www.cse.lk](http://www.cse.lk))

<sup>160</sup> Transaction identified from CSE data since SAP data not available prior to 1 September 2006.

<sup>161</sup> CSE data for transactions in JKH prior to September 2006 does not include the effect of corporate actions. Hence the quantity of stock sold is higher than the quantity of purchases.

<sup>162</sup> This count does not include 4 transactions for the purchase of JKH warrants.

<sup>163</sup> This count does not include 14 transactions for sale of JKH warrants.





Year	Amount of impairment (in million)
2016	(95.52)
<b>Total</b>	<b>(228.3)<sup>164</sup></b>

*Source: SAP data provided by EPF*

- 9.13.5 Top 20 sales transactions in the EPF Trading portfolio contributing to approximately 80% of the trading loss incurred by EPF were identified. Refer Annexure 33 for the top 20 sales transactions. Analysis of top 10 counterparties to these 20 sales transactions shows that the counterparties comprised of Institutional Investors, in addition to Mr. R.S. Captain, who is a major shareholder of JKH and Merrill J Fernando & Sons (Pvt) Limited (Owners of Dilmah Tea). Public domain searches did not reveal any relevant adverse information related to these individuals.
- 9.13.6 On review of IC minutes dated 26 September 2008, it was observed that the IC was informed about the announcement by JKH for buying back its share at LKR 90 per share. IC advised EPF to come up with scenario-based analysis. Refer Exhibit 17 for IC minutes. Subsequently, IC approved the purchase of 0.24 million shares of JKH on 10 October 2008, at a price below LKR 75.00 per share and sell back to JKH at LKR 90.00, as a part of the buyback scheme, creating a capital gain to EPF. Refer Exhibit 18 for approval of IC for buyback shares of JKH.
- 9.13.7 On review of the SAP data, it was observed that 0.24 million shares were purchased during the period 17 October 2008 to 29 October 2008 at an average price of LKR 66.66 and subsequently sold back to the company at LKR 90.00 on 1 December 2008, leading to a short-term capital gain of LKR 5.6 million. Though the transactions resulted in a short-term capital gain to EPF, it was treated as a realized loss owing to the adoption of 'Weighted Average Cost' method for profit/loss calculation.

**Price and volume analysis**

- 9.13.8 Analysis of price and volume data in the shares of JKH shows that major purchases were made during 2010 and sales were made during 2012. Set out below is price and volume chart for the shares during the Review Period:

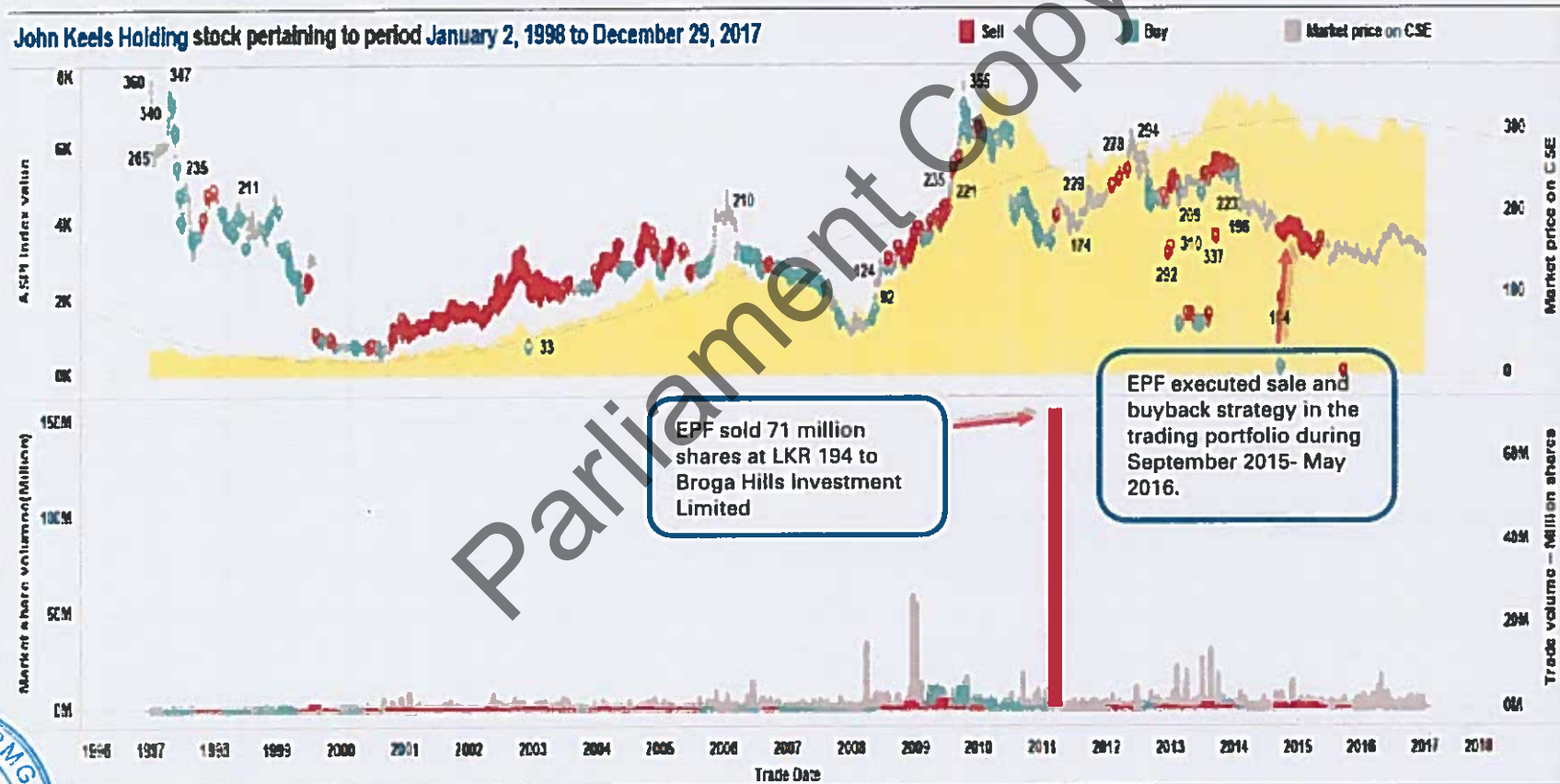
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<sup>164</sup> LKR 228.36 is the total loss incurred by EPF in the trading portfolio of JKH. Loss contributed by transactions above LKR 10 million amounted to LKR 210.80 million.





Chart 32: Price movement in John Keells Holding PLC during 2 January 1998 to 8 January 2018 along with details of EPF trades



- 9.13.9 The above chart depicts the market volume of JKH and the purchases and sales made by EPF. On 16 March 2012, JKH witnessed very high volume on CSE, which was due to the sale of 71 million shares amounting to LKR 13,744 million by EPF to Broga Hill Investments Limited. The shares were sold by EPF at a price of LKR 194.00 (resulting in a realized profit to EPF).
- 9.13.10 Details of the transaction contributing to 74.13% of the total sales made by EPF during the Review Period are mentioned below:

**Table 133: Major Sales in JKH**

Date	Quantity (million)	Price (LKR)	% transaction value of EPF to market value (In the shares on that day)	Counterparty for the transaction	% transaction value to total sales during Review Period
16 Mar 2012	71	194.00	92.42%	Broga Hill Investments Limited	74.13%

Source: CSE data

**Counterparty analysis**

- 9.13.11 On review of data received from the CSE, major counterparties and broker concentration was identified. Details of the major counterparties and major brokers identified are set out below:

**Table 134: Counterparty details**

Date	Quantity (million)	Amount in LKR (million)	Type	Major counterparty	Major EPF Broker name	Major Counterparty broker name
16 March 2012	6.50	1,261.00	Sale	Broga Hill Investments Limited	Nation Lanka Equities (Pvt) Ltd	John Keells Stock Brokers (Pvt) Ltd
30 September 2010	1.00	1,635.00	Buy	Mr. S.E. Captain	Capital Trust Securities (Private) Limited	Capital Trust Securities (Private) Limited
6 May 2010	1.00	191.00	Buy	Paint and General Industries Limited	Capital Trust Securities (Private) Limited	Capital Trust Securities (Private) Limited
6 May 2010	1.00	191.00	Buy		CTCLSA Securities (Pvt) Ltd	CTCLSA Securities (Pvt) Ltd

- 9.13.12 On an overall basis, as counterparties, Broga Hill Investments Limited contributed to 37.59% of transaction value, Mr. S.E. Captain contributed to 12.51% of transaction value







and Paints and General Industries Limited contributed to 4.93% of total transaction value in JKH.

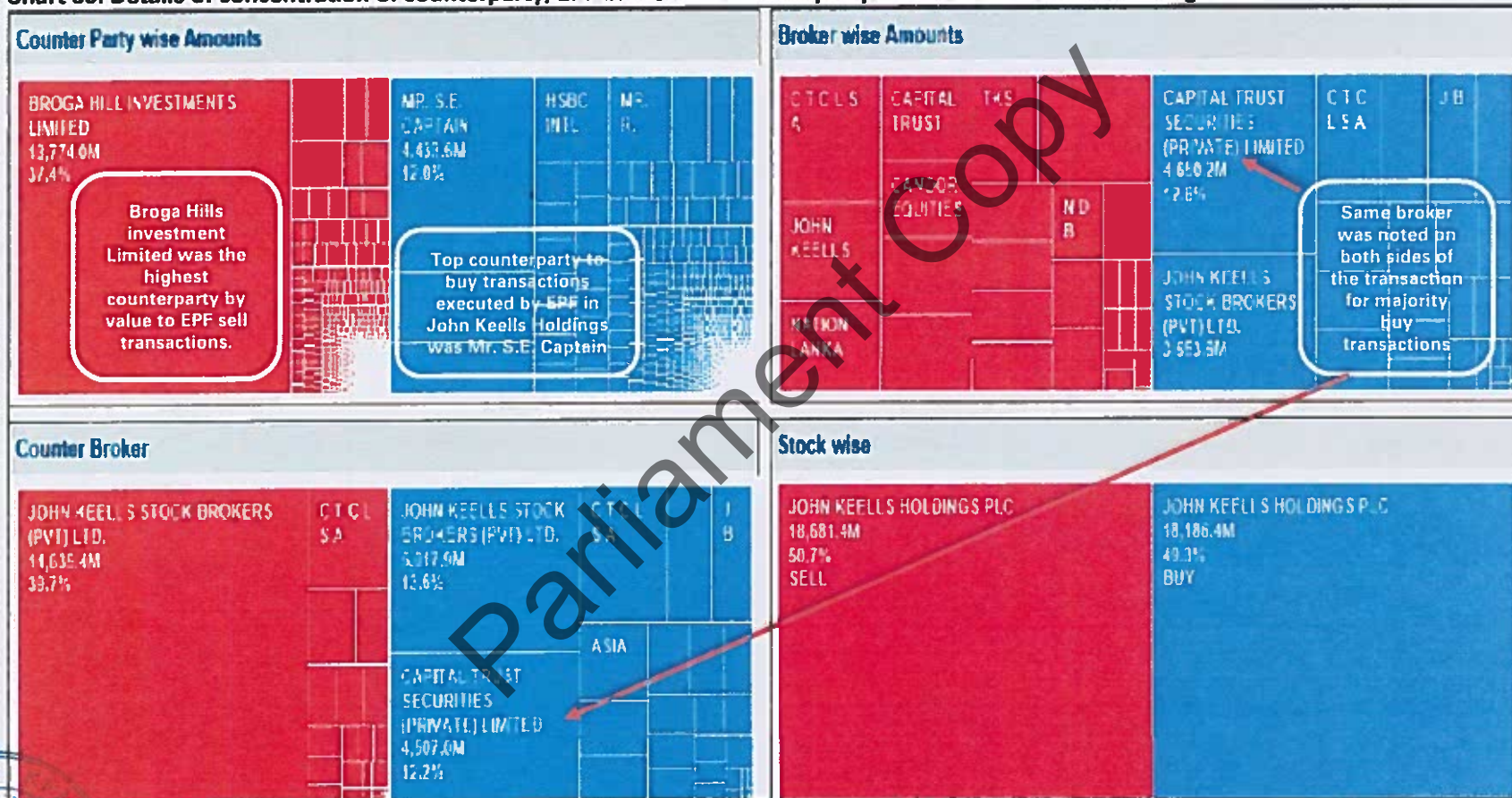
- 9.13.13 The concentration in the counterparty, counterparty broker and EPF broker in the transactions in JKH is given in the chart below:

Parliament Copy





**Chart 33: Details of concentration of counterparty, EPF broker and Counterparty broker in John Keells Holdings PLC.**



- 9.13.14 On review of information available in the public domain, it was noted that Mr. Sohli Captain was the Chairman of Paints and General Industries Limited. Paints and General Industries Limited was the third largest shareholder<sup>165</sup> of JKH as at 31 March 2017.
- 9.13.15 After the acquisition from EPF in March 2012, Broga Hill Investment Limited, which was a special purpose vehicle for acquisition by Malaysian fund Khazanah National Behad became the third largest shareholder in JKH after Mr. S.E Captain and Janus Overseas Fund<sup>166</sup>.
- 9.13.16 On review of ROC documents, it was noted that Mr. R.S. Captain (son of Mr. S.E. Captain) was a shareholder of Capital Trust Securities (Private) Limited. Refer Exhibit 19 for ROC document of Capital Trust Securities Private Limited. Mr. S.E. Captain was the seller of 1 million shares purchased by EPF on 30 September 2010. Public domain search indicated that John Keells Stock Brokers (Private), which was a broker for EPF for 13.60% of the total transaction value, is a subsidiary of JKH.
- 9.13.17 No communication between EPF personnel and the broker could be identified, since voice records during this time-period are unavailable.

**Sale and buyback strategy**

- 9.13.18 Sale transactions in the trading portfolio during the year 2015-16 resulted in a loss of LKR 223.5 million. This was as per the 'Sale and buyback' strategy approved by the IC. FO made a presentation on sale and buyback strategy for selling shares and buying warrants of JKH in the IC meeting dated 17 September 2015. Refer Exhibit 20 for IC minutes on JKH sale and buyback strategy. This strategy was approved by the IC "as it has a net advantage to the Fund". The strategy was expected to reduce the Weighted Average Cost of Capital (WACC) for the share in the trading portfolio.

**Table 135: Summary of trades, policy deviations and EPF personnel for loss making sales transactions**

Date	Transaction category	Quantity in million	Amount in LKR/million	Deviation, if any	Personnel signing the deal ticket
18 September 2015 to 12 May 2016	Sale	7.21	1,168.29	No	1. Mr. B.H.I.S Kumara <sup>167</sup> . 2. Mr. U.P. Jayasinghe 3. Ms. R.A.C.C. Rupasinghe
<i>Source: Deal tickets</i>					

- 9.13.19 Breach of trading limits for trading portfolio: On review of the transactions in the trading portfolio, it was noted that 68 transactions across 32 days in the trading portfolio during the Review Period were not in compliance with the limits set out in ITG 2007, ITG 2011 and the limits revised by the MB from time to time. Approvals for executing the

<sup>165</sup> Source: JKH annual report for 2016-17

<sup>166</sup> Source: JKH annual report for 2011-12

<sup>167</sup> As per the statement of Mr. R.A.A Jayalath (Superintendent), Mr. B.H.I.S Kumara was made the Head of FO on the recommendation of Mr. Arjuna Mahendran.



transaction in excess of the trading limits were not found on records in the documents provided for review. Refer Annexure 34 for detailed list of such transactions.

### Transaction Compliance

#### Initial transaction review

9.13.20 EPF started investing in JKH on 30 April 1998.

**Table 136: Approval details**

Portfolio type	IC approval	MB approval
Trading	2 April 1998	7 April 1998
Investment	2 April 1998	7 April 1998
<i>Source: IC and MB minutes</i>		

9.13.21 As mentioned in the Board paper dated 7 April 1998, IC had approved the investment in this scrip in its IC meeting dated 2 April 1998. However, the IC minutes for the year 1998 were not available in the documents provided for review.

#### Subsequent transaction review

9.13.22 EPF's transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG. The following non-compliances to the laid down policy and procedures were noted:

**Table 137: Non-compliances**

Criteria	Count	% of total	Value (LKR million)	% of total
Transaction not pre-approved by the IC	69	10.94%	2,690.38	7.71%
Transactions not as per IC plan	29	4.60%	4,049.00	11.60%
Transaction not ratified in Trading portfolio	2	0.32%	76.12	0.22%
<b>Total</b>	<b>100</b>	<b>15.86%</b>	<b>6,815.50</b>	<b>19.53%</b>

9.13.23 On review of the documents available, EPF personnel signing the transaction execution documents were identified based on the specimen signature sheet shared by EPF.. Summary of trades, policy deviations and EPF personnel have been provided in Annexure 35.

9.13.24 Interviews were conducted with the personnel involved in the transaction as mentioned above and the following was noted:

**Table 138: Relevant extracts of interview with EPF employees**



Name of the person	Role in the Transaction	Explanation provided
Mr. U.P. Jayasinghe	Dealer executing transactions	<p>....<i>"prepared the board paper to be presented to the Monetary Board as requested by the Monetary Board as an ex-post analysis in year 2017 or 2018."</i></p> <p>....<i>"on preparing the board paper" ... "was not quite privy of the rationale and was not able to understand the logic behind the strategy."</i></p> <p>....<i>"certain cases where verbal instructions were provided by S/EPF."</i></p>
Ms. R.A.C.C. Rupasinghe	Dealer executing transactions	<p>....<i>"was quite surprised regarding her posting to the EPF department".... "initially had no background in equity markets".</i></p> <p>....<i>"all transactions done by me in trading portfolio were as per the guidance and instructions of Mr. BHIS Kumara as I was not well versed with equity transactions."</i></p>
Mr. R.A.A. Jayalath	Superintendent	<p>....<i>"This was a loss reduction strategy for a share that stuck in the trading portfolio beyond the lifespan considered appropriate for the portfolio and converting it into good money. It was intended to dispose a relatively large holding of share held in the trading portfolio for a long period.</i></p> <p><i>FO made the presentation. Middle office and risk management also participated in the discussion and agreed with the strategy."</i></p>
Mr. B.H.I.S. Kumara	Senior Assistant Superintendent	Did not respond to the questionnaire

**Source: Interview with the employees**



## 9.14 Tal Lanka Hotels PLC

### Background

9.14.1 Tal Lanka Hotels PLC (TLH) formerly known as Taj Lanka Hotels PLC was incorporated in the year 1980. TLH is a subsidiary of Tal Hotels and Resorts Limited and is engaged in the Hotel business in Sri Lanka. TLH was listed on the CSE on 1 January 1982.

### EPF's investment in TLH

9.14.2 EPF started investing in TLH in 2009. Summary of EPF's transactions in TLH in the 'Trading' and 'Investment' portfolio during the Review Period is provided in the table below.

**Table 139: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity	LKR (million)	No. of Transactions	Quantity	LKR (million)
Trading	47	1.20	35.86	33	1.09	40.96
Investment	76	9.34	434.31	70	2.01	144.66
<b>Total</b>	<b>123</b>	<b>10.54</b>	<b>470.17</b>	<b>103</b>	<b>3.10</b>	<b>185.62</b>

*Source: SAP and CSE data provided by EPF*

**Table 140: Transactions above LKR 10 million during the period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity	LKR (million)	No. of Transactions	Quantity	LKR (million)
Trading	-	-	-	3 <sup>169</sup>	0.04	2.77
Investment	22	7.72	368.72	45	1.72	122.53
<b>Total</b>	<b>22</b>	<b>7.72</b>	<b>368.72</b>	<b>48</b>	<b>1.76</b>	<b>125.30</b>

*Source: SAP data provided by EPF*

9.14.3 Details of all transactions above LKR 10 million are set out in Annexure 36.

### Losses incurred by EPF in TLH

9.14.4 EPF incurred a total impairment loss of LKR 224.48 million in TLH in the year 2017. The entire loss of LKR 224.48 million was incurred by EPF in the investment portfolio. Majority of purchases above LKR 10 million were concentrated during the year 2010. The details of the transactions contributing to 60% of the purchases in the investment portfolio are set out below:

<sup>169</sup> On 7 September 2010, there were three transactions (LKR 2.77 million) and four transactions (LKR 10.58 million) in the investment portfolio which together resulted in a sale of LKR 13.35 million on a single day.



**Table 141: Concentration of transactions**

Date	Purchase quantity (million)	Price (LKR)	Transaction value (LKR million)	% Transaction value of EPF to market value (In the shares on that day)	Type of transaction	% Transaction value to total purchases during Review Period
17 June 2010	2.87	48.25	138.27	98.73%	Crossing	31.84%
	0.13		6.48		Normal	1.49%
25 May 2010	0.70	49.00	34.30	88.71%	Crossing	7.90%
	0.81		39.52		Normal	9.10%
21 June 2010	0.50	47.50	23.75	95.94%	Crossing	5.47%
	0.50		23.75		Normal	5.47%
<b>Total</b>	<b>5.51</b>		<b>266.07</b>			<b>61.27%</b>

*Source: Market data from CSE*

**Price and volume analysis**

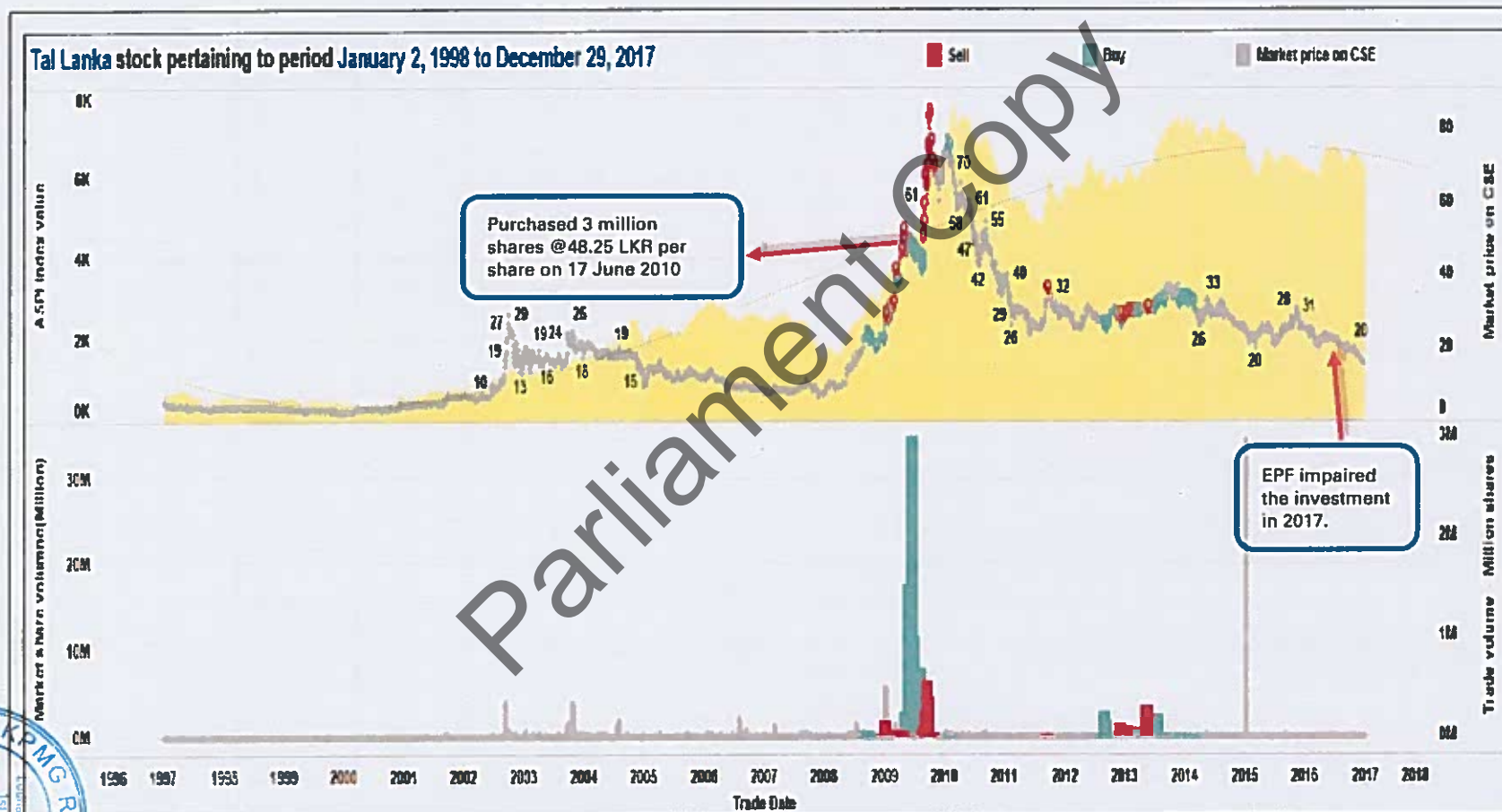
9.14.5 Analysis of price and volume data for TLH, along with ASPI trend indicated that the purchases of EPF above LKR 10 million in the Investment portfolio were concentrated during the year 2010. Following is the price and volume chart for the shares during the Review Period:

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Chart 34: Price movement in TLH during 2 January 1998 to 29 December 2017



9.14.6 From the above chart, the following was noted:

- Price of TLH shares steadily rose within a period of one year from LKR 8.00 on 2 January 2009 to LKR 25.25 on 4 January 2010. The price further rose to LKR 50 levels by 30 April 2010 (EPF bought between LKR 47.50 and LKR 49.00). The price touched a high of LKR 89.00 on 27 September 2010, then started declining and came down to a close of LKR 29.80 by 2 April 2012.
- The share price was subsequently observed to be rangebound between LKR 20.20 and LKR 37.50 between 3 April 2012 and 30 December 2016 and then declined to LKR 15.90 by 30 December 2017.
- The movement in the price 30 days prior and after the transactions is given below.

**Table 142: Market price movement 30 days prior and post the transactions**

Transaction Date	Period <sup>169</sup>	Date from	Date to	Minimum price (LKR)	Maximum price (LKR)	Average price (LKR)
17 June 2010	- 30 days	4 May 2010	16 June 2010	45.50	52.50	47.96
	Price on 17 June 2010			46.00	48.50	47.25
	+30 days	21 June 2010	2 August 2010	42.75	49.75	46.37
25 May 2010	- 30 days	7 April 2010	24 May 2010	43.00	52.50	47.43
	Price on 25 May 2010			47.00	49.50	48.25
	+30 days	26 May 2010	12 July 2010	42.75	52.50	47.13
21 June 2010	- 30 days	5 May 2010	17 June 2010	45.50	52.50	47.93
	Price on 21 June 2010			47.25	48.25	47.75
	+ 30 days	22 June 2010	3 August 2010	42.75	49.75	46.29

*Source: CSE data and KPMG's workings*

9.14.7 From the analysis of price movement, it was observed that the price at which EPF executed the trade was

- higher by 2.12% than the average market price on 17 June 2010
- higher by 1.55% than the average market price on 25 May 2010
- lower by 0.52% than the average market price on 21 June 2010

9.14.8 EPF had executed the above trade at LKR 48.25, which was close to the high price of LKR 48.50 on 17 June 2010.

#### **Counterparty analysis**

9.14.9 Analysis of the counterparties to the above transactions shows that out of the 3 million shares purchased by EPF on 17 June 2010, 88.33% were sold by Mercantile Investments and Finance PLC in a crossing transaction. Of the 2.51 million shares purchased on 25 May 2010 and 21 June 2010, Ms. J.E. De Silva sold 1.2 million shares.

**Table 143: Counterparty details**

<sup>169</sup> Price and quantity analysis is based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction





Trade date	Quantity (million)	Amount (LKR/million)	Major counterparty	EPF broker	Counterparty broker
17 June 2010	2.65	127.86	Mercantile Investments and Finance PLC	J B Securities (Pvt) Ltd	Capital Trust Securities (Private) Limited
25 May 2010	0.70	34.30	Ms. J.E. De Silva	J B Securities (Pvt) Ltd	J B Securities (Pvt) Ltd
21 June 2010	0.50	23.75	Ms. J.E. De Silva	J B Securities (Pvt) Ltd	J B Securities (Pvt) Ltd

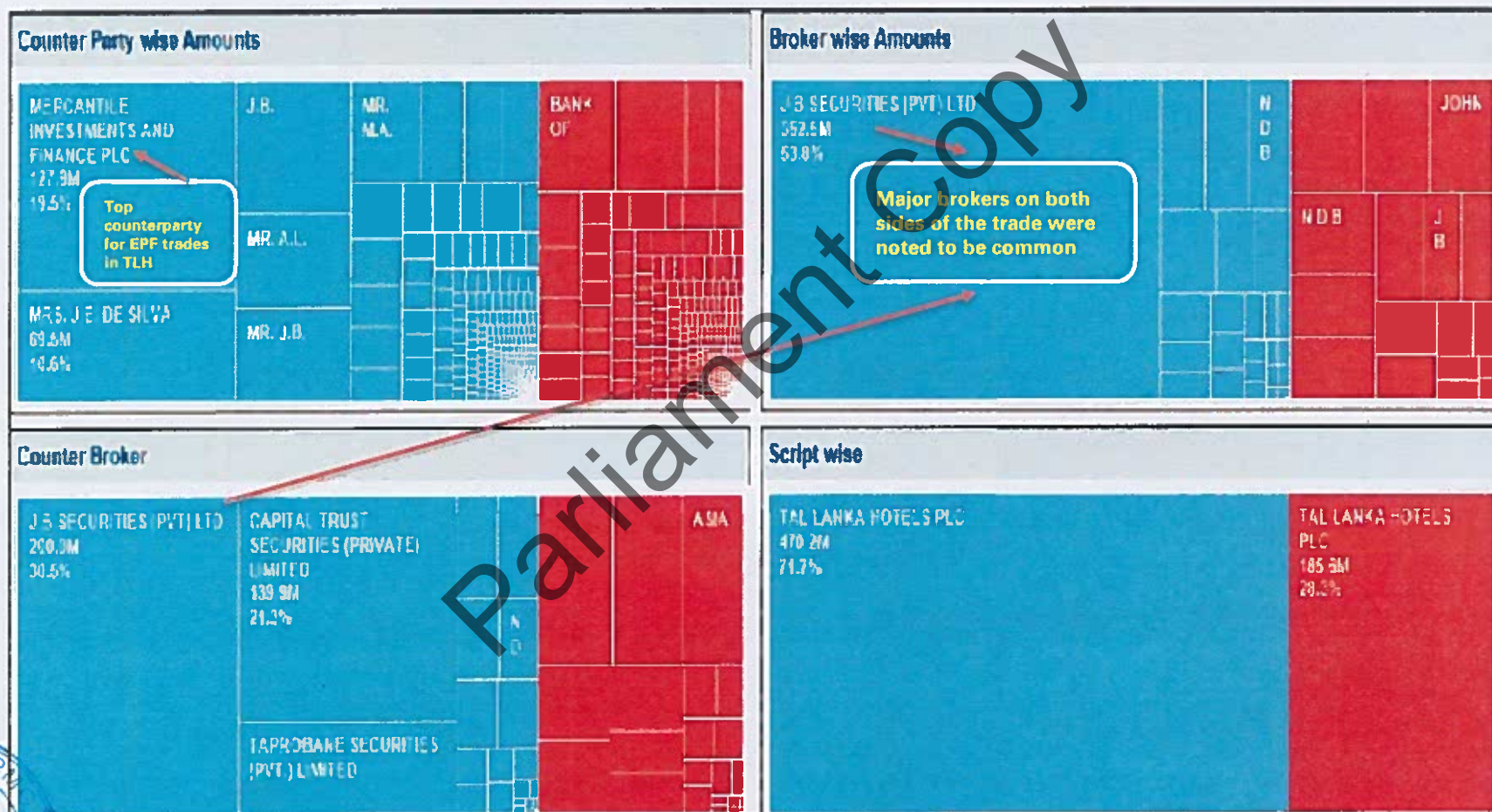
- 9.14.9.1 Mercantile Investments and Finance PLC was the counterparty in 19.73% of the transactions with EPF and Mrs. J.E. De Silva contributed 10.59%. On review of data received from CSE, it was noted that JB Securities (Pvt) Ltd was the broker for EPF for all crossing transactions amounting to LKR 257.85 million. ROC documents for JB Securities (Pvt) Ltd were not available for review.
- 9.14.10 The concentration in the counterparty, counterparty broker and EPF broker in the transactions in TLH is given in the chart below:

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Chart 35: Details of concentration of counterparty, EPF broker and Counterparty broker in TLH:





- 9.14.11 No communication between EPF personnel and the broker could be identified, since email and voice records for this time-period were not available.

**Transaction Compliance**

- 9.14.12 EPF's transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG. The following non-compliances to the laid down policy and procedures were noted:

For addition of the company to the Approved Share List for Trading Portfolio

- 9.14.13 As per ITG 2007, prior approval of IC and MB was required for adding a company to the ASL. If investment/trading was to be made in a company not in the ASL then prior approval of the IC and special approval of the Governor was required. MB to ratify such investments in the Board meeting to be held immediately thereafter.

For the initial transaction dated 15 September 2009, both IC and MB approval dated 31 July 2009 and 31 August 2009 respectively was available for inclusion in the ASL for trading portfolio.

For addition of the company to the Approved Share List for Investment Portfolio

- 9.14.14 At the time of initial transaction in the Investment portfolio on 12 May 2010, TLH was not in the ASL for Investment portfolio. However, neither IC approval nor special approval of the Governor was available in the documents provided for review. MB through its Board paper dated 9 July 2010, approved the inclusion of TLH in ASL in Investment portfolio and ratified the investments already made in TLH amounting to LKR 378.15 million in 7.88 million shares. The rationale for including this scrip in the ASL was considering the future prospects in Tourism and Hotel sector. Thus, there was a violation of ITG 2007.

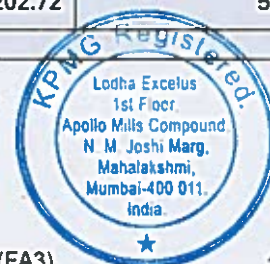
**Subsequent transaction review**

- 9.14.15 EPF's transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG.
- 9.14.16 Below mentioned table summarises the transaction compliance for all purchase transactions in Investment portfolio above LKR 10 million:

**Table 144: Non-compliant transactions**

Particulars	Transaction not in compliance	Amount (LKR million)	% of total investments
Transaction not as per IC plan	2	10.47	2%
Transaction not pre-approved by IC subsequently ratified	2	192.25	39%
Total of non-compliant transactions	4	202.72	55%

Source: SAP data and IC minutes





9.14.17 Set out below is the summary of trades executed by EPF in TLH during the Review Period, deviations noted in the transactions as against the prevalent IPS and ITS and the personnel executing the transactions.

**Table 145: Summary of trades, policy deviations and EPF personnel**

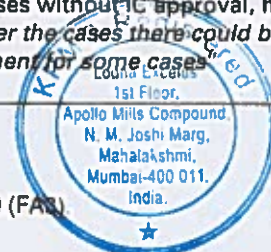
Date	Buy		Deviation, if any	Personnel
	Quantity (million)	LKR/ million		
13 May 2010	0.10	4.70	Transaction not in plan	Deal ticket, Settlement Sheet, Order Placement Sheet and Trading Approval form were not available in the data provided for review.
13 May 2010	0.12	5.77	Transaction not in the plan	
17 June 2010	3.00	144.75	Transaction executed in excess of the approved limit	
21 June 2010	1.00	47.50	Transaction executed in excess of the approved limit	Names identified in the order placement sheet: 1. Mr. M.J.S Abeysinghe- Superintendent 2. Mr. L.D.D.Y. Perera- Deputy Superintendent Deal ticket, Settlement Sheet, and Trading Approval form were not available in the data provided for review.

*Source: Deal ticket, settlement sheet*

9.14.18 Mr. M.J.S. Abeysinghe was S/EPF at the time of the transaction and he was questioned about the rationale for the investment.

**Table 145A: Relevant extracts of interview with EPF employees**

Name of the person	Role in the transaction/ or in EPF	Explanations provided
Mr. M.J.S. Abeysinghe	Superintendent of EPF at the time of the transaction	...."usually Investment Committee analyzes the investment and the rationale must have been documented in the board paper wherein there was a strategic movement to venture into hotel sector and make investments."
Mr. L.D.D.Y. Perera	Deputy Superintendent of EPF	Regarding a query on purchases without IC approval, he stated that "I do not remember the cases there could be directions from top management for some cases"





		...."top management".. " would mean the Governor and the Deputy Governor"
<b>Source: Minutes of the interview</b>		

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## 9.15 The Finance Company PLC

### Background

9.15.1 The Finance Company PLC (TFC) was established in 1940. The main line of business of TFC was hire purchase, other financing activities and real estate business. The company was listed on the CSE on 9 December 1994.

### EPF's investment in TFC

9.15.2 EPF started investing in The Finance Company PLC in 2011. Investment in TFC was made through subscription to the Follow-on Public (FPO) on 21 January 2011. However, only ratification of IC and MB was available on 26 January 2011 and 21 February 2011. Summary of EPF's transactions in TFC in the 'Trading' and 'Investment' portfolio during the Review Period is given below.

**Table 146: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	-	-	-	-	-	-
Investment	10	5.09	205.20	-	-	-
<b>Total</b>	<b>10</b>	<b>5.09</b>	<b>205.20</b>	<b>-</b>	<b>-</b>	<b>-</b>

Source: SAP and CSE data provided by EPF

9.15.3 Summary of all the transactions above LKR 10 million is set out below and the list of all transactions above LKR 10 million is provided in Annexure 37.

**Table 147: Transactions above LKR 10 million**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	-	-	-	-	-	-
Investment	1	4.50	179.90	-	-	-
<b>Total</b>	<b>1</b>	<b>4.50</b>	<b>179.90</b>	<b>-</b>	<b>-</b>	<b>-</b>

Source: SAP and CSE data provided by EPF

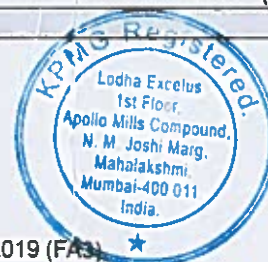
### Impairment losses incurred by EPF in TFC

9.15.4 It was observed that EPF incurred a total impairment loss of LKR 179.02 million in TFC. The years in which EPF recorded impairment loss in its books are shown in below table.

**Table 148: Impairment loss recorded by EPF**

Year	Amount of impairment (LKR /million)
2015	(138.29)
2016	(33.60)
2017	(7.13)
<b>Total</b>	<b>(179.02)</b>

Source: SAP data provided by EPF





**Price and volume analysis**

- 9.15.5 Analysis of price and volume data in the shares of TFC shows that there was a single transaction above LKR 10 million in the Investment portfolio, which was during the year 2011. Set out below is price and volume chart for the shares, along with overall trend of ASPI, during the period 2 January 1998 to 29 December 2017:

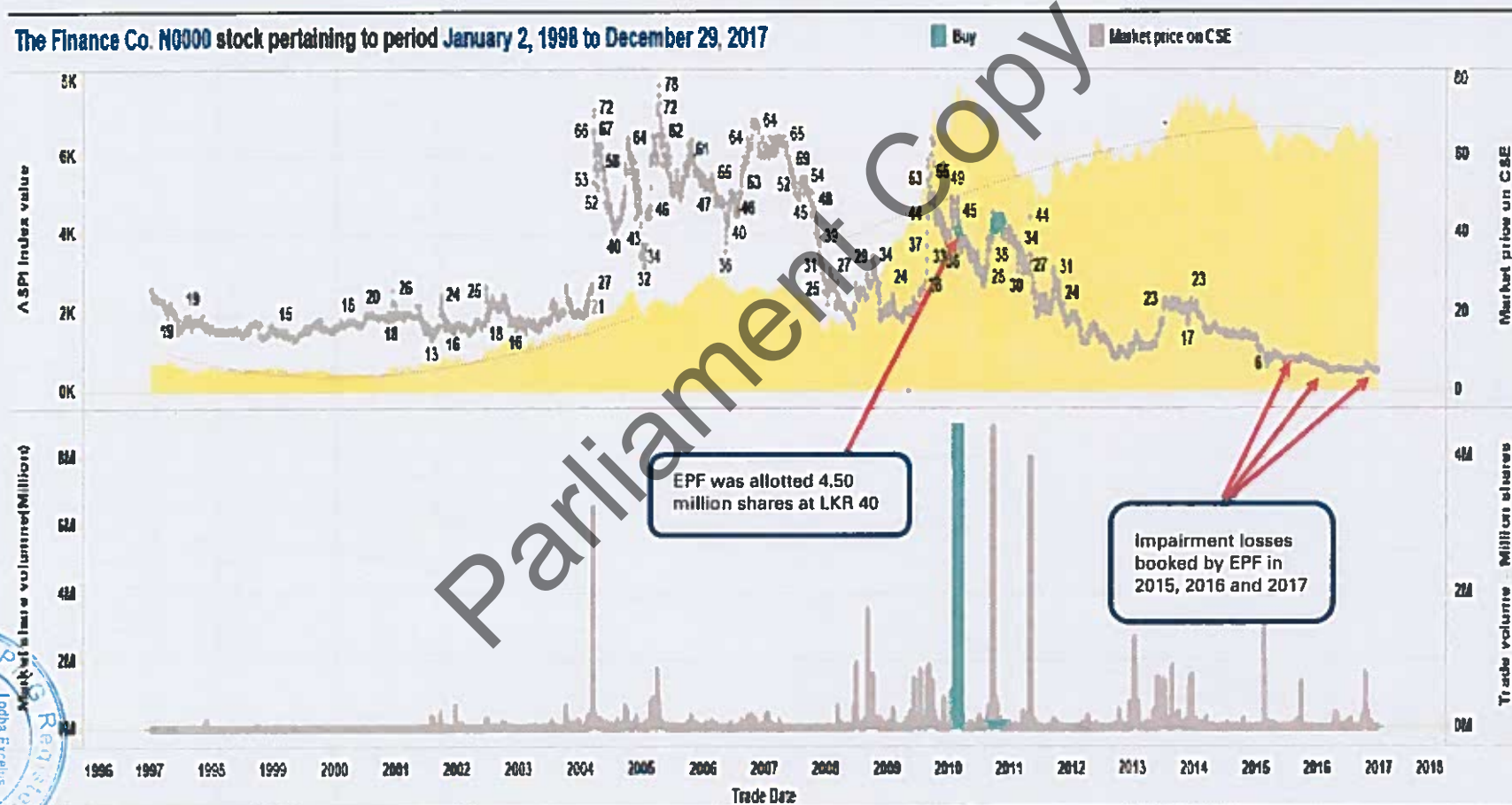
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Chart 36: Price movement in The Finance Company during 2 January 1998 to 29 December 2017 along with details of EPF trades:



- 9.15.6 From the above chart, it was noted that TFC share went to approximately LKR 78 levels in April 2006, declined and further surged to LKR 68.50 in October 2007. The share price then declined to LKR 35-40 levels around December 2010, just prior to the FPO subscription by EPF.
- 9.15.7 EPF was allotted 4.50 million shares of TFC at LKR 40.00 per share on 23 February 2011. The movement in the price 30 days prior to and after the transaction is given in the table below:

**Table 149: Market price movement for 30 days prior and post the transaction**

Transaction Date	Period <sup>170</sup>	Date from	Date to	Minimum Price (LKR)	Maximum Price (LKR)	Average Price (LKR)
23 February 2011	- 30 days	5 January 2011	22 February 2011	38.50	53.00	44.77
	Price on 23 February 2011			45.00	48.80	46.90
	+30 days	24 February 2011	7 April 2011	35.00	47.10	38.66

Source: CSE data and KPMG's workings

- 9.15.8 From the analysis of price movement, it was observed that the price at which EPF acquired shares in the FPO was 17.25% lower than the average market price on 23 February 2011 (Date of allotment of shares). MO analysis to determine whether the FPO price was appropriate for investment was not available in the documents provided for review.

**Counterparty analysis**

- 9.15.9 Since the initial investment in TFC was made by way of subscription to the FPO, there was no counterparty to the transaction.

**Transaction Compliance**

**For addition of the company to ASL**

- 9.15.10 As per IPS 2002 and ITG 2007, approval of the IC and special approval of the Governor was required to invest in companies not included in the ASL by MB. In case of the above investment, MB approval was not obtained for inclusion in the ASL. Therefore, special approval of the Governor was required. Hence, the transaction was not in compliance with the prevalent policy guidelines, since neither MB approval nor Governor's special approval was obtained before the investment decision and for inclusion in the ASL.
- 9.15.11 As per the documents made available for review, it was noted that TFC reported losses during the FY 2009 and 2010, due to heavy deposit withdrawals eroding the shareholder's funds and net asset value of TFC. Refer Exhibit 21 for the details of the document

<sup>170</sup> Price analysis is based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction.



highlighting the issue. Due to this reason, a restructuring plan was proposed to strengthen the financial position through the FPO, in which EPF was also allotted shares.

- 9.15.12 As per the documents made available for review, it was evidenced that EPF had issued a cheque to TFC on 21 January 2011 for subscribing to the FPO of the company before the IC approvals on 26 January 2011 and MB paper dated 21 February 2011. The said subscription to FPO was made in consultation with the IC. An approval note stating the reasons for investment was submitted by Ms. C. M. D. N. K. Seneviratne (Former Additional Superintendent of EPF) to Mr. B. D. W. A. Silva (Former Assistant Governor in charge of EPF) on 21 January 2011, which was also signed by other IC members, namely Mr. L. D. D. Y. Perera (Former Deputy Superintendent) and Ms. R. Dheerasinghe (Former Superintendent). Refer Exhibit 21 for the approval note.
- 9.15.13 Monetary Board in its meeting dated 21 February 2011 ratified the investment and included TFC in the ASL. The IC minute dated 26 January 2011 mentioned, *"Middle Office informed IC that EPF has applied for 5 million shares at LKR 40 each of The Finance Company Plc through the Public Offering after consulting the members of IC. Accordingly, IC was requested to ratify the investment"*. IC members approved investment via approval note dated 21 January 2011 and ratified the same in the IC meeting on 26 January 2011.
- 9.15.14 Further review indicated that a draft Board paper dated 14 February 2011 had the following text struck-off in the paragraph 'Rationale of Investment in The Finance PLC' *"The Finance PLC is in the process of recapitalizing the company under the close supervision of the Central Bank of Sri Lanka"*. Refer Exhibit 22 for details regarding the same. It is pertinent to note that CBSL being a regulator of Banking and Financial institutions and MB of CBSL being a custodian of EPF funds, there could have been a potential conflict of interest for investment in the shares of TFC.
- 9.15.15 KPMG conducted interviews with the personnel involved in the transaction as mentioned above and the following was noted:

**Table 150: Relevant extracts of minutes with EPF employees**

Name of the person	Role in the Transaction	Explanation provided
Ms. R. Dheerasinghe	Superintendent	.... <i>"would not know the details of the approval regarding the IPO transaction"</i> .
Mr. B.D.W.A. Silva	Assistant Governor	.... <i>"I do not remember the events that transpired around the investment. ....considering the prospects of the company and the NSB TFC deal which if would have been successful could have led the investment to yielding higher dividends."</i>

**Source: Interview with the employees**



## 9.16 Hayleys Fabric PLC

### Background

9.16.1 Hayleys Fabric PLC (HFP), formerly Hayleys MGT Knitting Mills PLC was incorporated in 1993. HFP is owned by Hayleys PLC and is a textile manufacturer in Sri Lanka. It was listed on the CSE on 23 April 2003.

### EPF's investment in HFP

9.16.2 EPF started investing in HFP in 2005. MB paper for investment decision in HFP provided that a proposal was received from NDB Securities (Private) Limited on 4 October 2005 for investments in the shares of HFP. EPF received a dividend of LKR 60.39 million during the Review Period.

9.16.3 Summary of EPF's transactions in HFP in the 'Trading' and 'Investment' portfolio during the Review Period is given below.

**Table 151: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	8	0.16	5.42	-	-	-
Investment	7	4.30	211.38	35	0.40	22.51
<b>Total</b>	<b>15</b>	<b>4.46</b>	<b>216.80</b>	<b>35</b>	<b>0.4</b>	<b>22.51</b>

Source: SAP data

9.16.4 Summary of all the transactions above LKR 10 million is given below and the list of all transactions above LKR 10 million is provided in Annexure 38.

**Table 152: Transactions above LKR 10 million**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	-	-	-	-	-	-
Investment	2	4.28	210.68			
<b>Total</b>	<b>2</b>	<b>4.28</b>	<b>210.68</b>			

### Impairment losses incurred by EPF in HFP

9.16.5 EPF incurred a total impairment loss of LKR 138.79 million in HFP. The yearly impairment loss in it the books of accounts of EPF for HFP are given below:

**Table 153: Year wise impairment losses**

Year	Amount of impairment (LKR /million)
2016	(130.48)
2017	(8.31)
<b>Total</b>	<b>(138.79)</b>

Source: SAP data provided by EPF

- 9.16.6 A major portion of the total loss of LKR 138.79 million incurred by EPF in HFP could be attributed to the following concentrated transactions carried out in the investment portfolio:

**Table 154: Concentration of transactions**

Date	Purchase quantity in million	Price (LKR)	Transaction value (LKR million)	% Transaction value of EPF to market value (In the shares)	Type of transaction	% Transaction value to purchases during Review Period
7 November 2005	3.94	50.00	196.98	64.17%	Normal	93.19%
30 May 2007	0.34	40.00	13.71	97.54%	Normal	6.49%
<b>Total</b>	<b>4.28</b>		<b>210.69</b>			

**Price and volume analysis**

- 9.16.7 Analysis of price and volume data in the shares of HFP shows that majority of the purchases of EPF above LKR 10 million in the Investment portfolio<sup>171</sup> were during the years 2005 and 2007. Set out below is price and volume chart for the shares during the Review Period:

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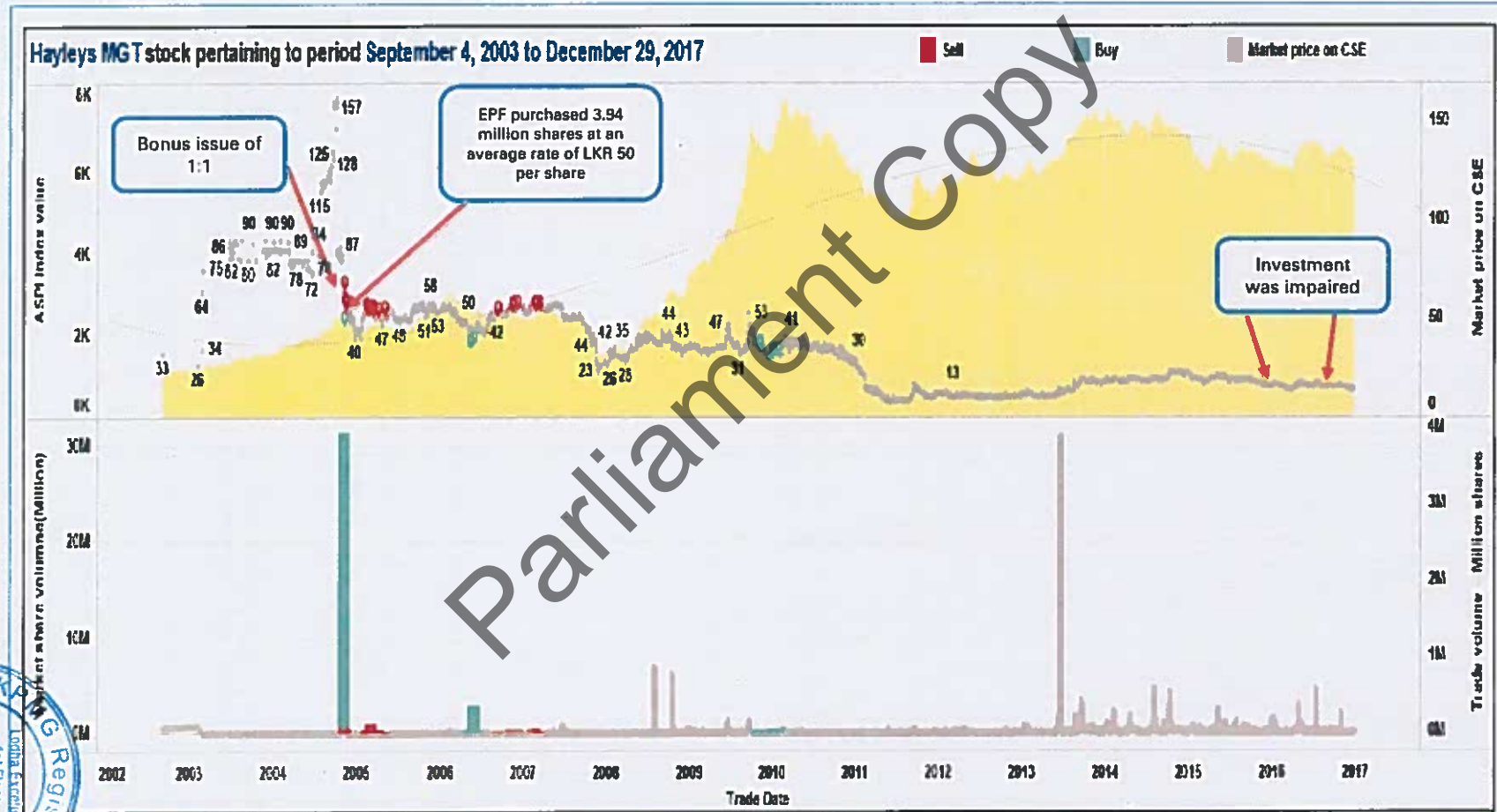
<sup>171</sup> Transactions in the trading portfolio were below the limit of LKR 10 million







Chart 37: Price movement in Hayleys Fabric PLC during 4 September 2003 to 29 December 2017 along with details of EPF trades



9.16.8 From the above chart, the following was noted:

- Share price of HFP was observed to have risen from LKR 32.50 on 4 September 2003 to LKR 161.00 on 4 October 2005. Post bonus issue in the scrip, the price adjustment resulted in the price reaching LKR 84.75 on 5 October 2005. The price traded in the range of LKR 79.25 and LKR 87.00 between 6 October to 28 October 2005. On the date of EPF trade on 7 November 2005, the price fell to a low of LKR 50.00 after opening at LKR 75.00 and closed at LKR 69.25. EPF purchased 3.94 million shares on 7 November 2005 at the day's low price i.e. LKR 50.00.
- The price of the share was rangebound (LKR 36.50 to 64.00) up to 11 November 2008 (LKR 40.00) and started declining thereafter and reached LKR 13.50 by 29 December 2017.
- The price movement in the shares of HFP 30 days immediately prior to and after this EPF purchase transaction is given below :

**Table 155: Market price movement 30 days prior and post the transaction**

Date	Period <sup>(1)</sup>	Date from	Date to	Minimum price (LKR)	Maximum price (LKR)	Average price (LKR)
7 November 2005	-30 days	13 September 2005	28 October 2005	79.00	175.00	116.18
	Price on 7 November 2005			50.00	75.00	62.50
	+30 days	08 November 2005	21 December 2005	45.25	69.00	53.02
30 May 2007	-30 days	19 March 2007	25 May 2007	37.50	52.00	46.49
	Price on 30 May 2007			40.00	45.00	42.50
	+30 days	1 June 2007	24 July 2007	42.00	55.00	44.73

9.16.9 From the analysis of price movement, it was observed that the price at which EPF executed the trade was lower by 20% than the average market price on 7 November 2005 and lower by 5.88% than the average market price on 30 May 2007

9.16.10 EPF had executed the trade on 07 November 2005 and 30 May 2007 at LKR 50.00 and LKR 40.00 respectively, which was the minimum market price on the respective trade dates.

9.16.11 Since minutes of the IC meeting for the above transactions were not available in the documents provided for review, it could not be determined if the transaction was approved by IC and whether the price and quantity was in conformation with the approval, if any.

#### **Counterparty analysis**

9.16.12 It was noted that total 4.28 million shares out of the total 4.30 million shares of HFP (purchased by EPF during the Review Period), were purchased on two trading days (07 November 2005 and 30 May 2007). On review of the transactions, it was noted that these

<sup>(1)</sup> Price and quantity analysis is based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction

two transactions above 10 million in a day contributed to 99.68% of the total purchase value in the shares during the Review Period. Details of counterparties to the above transactions are set out below:

**Table 156: Details of the Brokers, counterparty, counter party broker and the concentration**

Trade Date	Quantity (million)	Amount in LKR million	Name of the counterparty	EPF Broker	Counterparty broker
7 November 2005	3.94	196.98	National Development Bank PLC	NDB Securities (Private) Ltd	NDB Securities (Private) Ltd
30 May 2007	0.34	13.71	Elgin Investments Limited	NDB Securities (Private) Ltd	NDB Securities (Private) Ltd
<b>Total</b>	<b>4.28</b>	<b>210.69</b>			

9.16.13 Details of the brokers, counterparties, counter party brokers and the concentration of these transactions are set out in the chart below:

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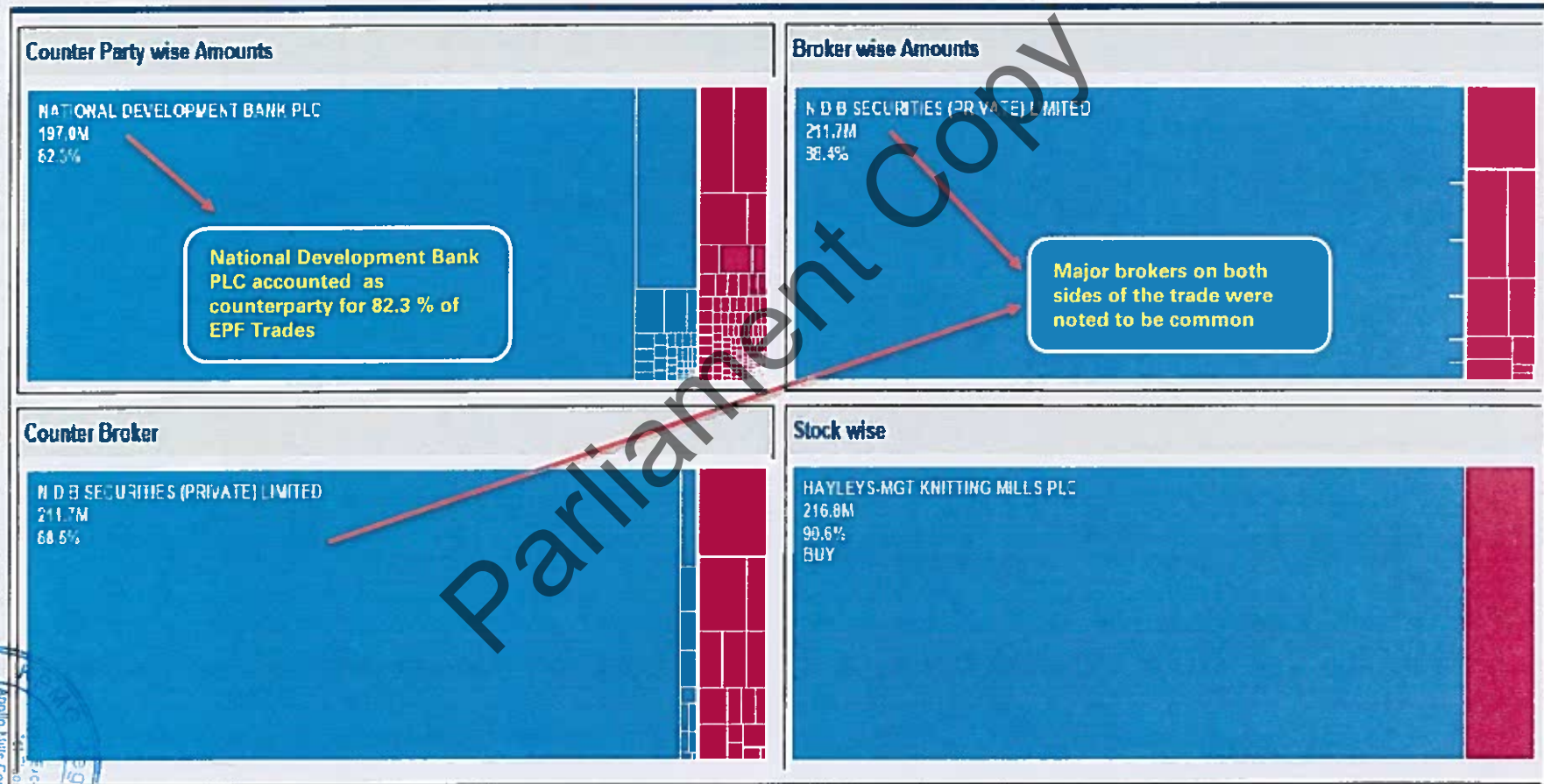
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Chart 38: Details of concentration of counterparty, EPF broker and Counterparty broker in Hayleys Fabric PLC



- 9.16.14 From the CSE data, it was observed that both the above transactions were executed in the 'Normal' market and National Development Bank PLC and Elgin Investments Limited were the counterparties for the purchases of EPF. National Development Bank PLC is a commercial bank operating in Sri Lanka.
- 9.16.15 It was observed that in both the cases, the EPF broker, and counterparty broker was the same - NDB Securities (Private) Ltd. Thus, for 99.68% of the purchases made by EPF, NDB Securities (Private) Ltd was both the EPF Broker as well as the counterparty broker. No information pertaining to the ROC filings, names of the directors and shareholders related to NDB Securities (Private) Ltd was made available for review.
- 9.16.16 No communication between EPF personnel and the broker could be identified, since email and voice records for this time-period are unavailable.

**Transaction compliance**

**For addition of the company to ASL:**

- 9.16.17 Investment portfolio - As per IPS 2002, there was no specific policy for including a scrip in the ASL for investments/trading by the EPF. Based on the analysis provided in the Board paper dated 3 November 2005 approving the investment, National Development Bank PLC, then second largest shareholder of HFP holding 26.30% stake, intended to dispose 50% of its holding amounting to 6.45 million shares.

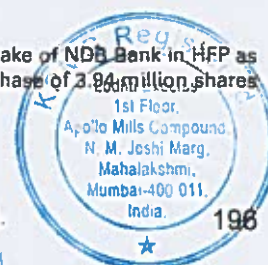
**Subsequent transaction review**

- 9.16.18 EPF's transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG. The following non-compliances to the laid down policy and procedures were noted:
- For the purchase transaction dated 7 November 2005, the IC minutes were not available and hence transaction compliance could not be tested.
  - For transaction dated 30 May 2007, the company was not pre-approved by the IC.
- 9.16.19 As per IPS 2002, unless agreed by the IC, investment in any company should not exceed 5% of its issued share capital. However, post the initial purchase transaction on 7 November 2005, EPF's stake in HFP had reached 16.02%<sup>172</sup> of the total issued share capital. Since IC minutes for this transaction were not available, the compliance for EPF stake in HFP could not be tested.
- 9.16.20 Set out below is the summary of major trades executed by EPF in HFP during the Review Period, deviations noted in the transactions as against the prevalent IPS and ITS and the personnel executing the transactions.

**Table 157: Summary of trades, policy deviations and EPF personnel**

Date	Buy	Personnel
------	-----	-----------

<sup>172</sup> As per the financial statement of HFP in the documents provided for review, the stake of NDB Bank in HFP as on 31 March 2005 was 26.30% by holding 6.45 million shares. Accordingly, post purchase of 3.94 million shares the EPF's stake in HFP became 16.02%.



	Quantity (million)	LKR/ million	Deviation, if any	
7 November 2005	3.94	196.98	NA <sup>173</sup>	Critical transaction execution documents not available.
30 May 2007	0.34	13.71	Transaction not pre-approved by IC	

9.16.21 For the above transactions, the transaction execution documents such as order placement sheets, share trading approval forms, deal tickets and settlement sheets were not available in the data provided for review. As a result, the names of the persons authorizing and executing the transaction could not identified.

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<sup>173</sup> IC minutes for the transaction dated 7 November 2005 were not available in the documents provided for review



## 9.17 Eden Hotels Lanka PLC

### *Background of the company*

9.17.1 Eden Hotels Lanka PLC (Eden) was incorporated in the year 1992. The company was under the management of Confifi group upto 2010. However, post 2010 was owned by Lanka Orix Leasing Company. It operates in the hotel and tourism sector. Eden was listed on the CSE on 13 December 1993.

### *EPF's investment in Eden*

9.17.2 EPF started investing in Eden Hotels Lanka PLC in the year 2009 post approval of the IC on 28 October 2009 and the MB on 17 November 2009. EPF received a dividend of LKR 3.41 million during the Review Period.

9.17.3 The summary of EPF's transactions for Eden in the 'Trading' and 'Investment' portfolio during the Review Period is set out in the table below.

**Table 158: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	37	1.25	43.08	40	1.25	54.92
Investment	58	6.36	274.95	33	6.36	189.57
<b>Total</b>	<b>95</b>	<b>7.61</b>	<b>318.03</b>	<b>73</b>	<b>7.61</b>	<b>244.49</b>

Source: SAP data

9.17.4 Summary of all the transactions above LKR 10 million is set out below and the list of all transactions above LKR 10 million are set out in Annexure 39.

**Table 159: Transactions above LKR 10 million during the period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	7	0.33	11.18	-	-	-
Investment	1	5.20	236.60	17	5.76	149.77
<b>Total</b>	<b>8</b>	<b>5.53</b>	<b>247.78</b>	<b>17</b>	<b>5.76</b>	<b>149.77</b>

Source: SAP data

### *Losses incurred by EPF in Eden*

9.17.5 EPF recorded an impairment loss of LKR 128.41 million in its books of account on 31 December 2015.

9.17.6 The entire loss of LKR 128.41 million was incurred by EPF in its investment portfolio. The loss could be attributed to the following transaction which amount to 86.05% of the total purchases during the Review Period:

**Table 160: Concentration of Trades**

Date	Purchase quantity in million	Price (LKR)	Transaction value (LKR million)	% Transaction value of EPF to market value (In the shares)	Type of transaction	% Transaction value to total purchases during Review Period
4 June 2010	5.20	45.50	236.60	96.67%	Crossing	86.05%

Source: CSE data

**Price and volume analysis**

- 9.17.7 Analysis of price and volume data in the shares of Eden shows that majority of the quantity purchased by EPF in the Investment portfolio was during the year 2010. Depicted below is price and volume chart for the shares along with ASPL trend during the Review Period.

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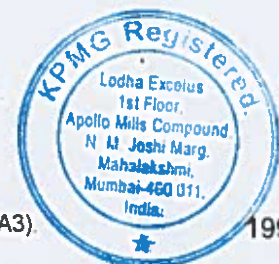
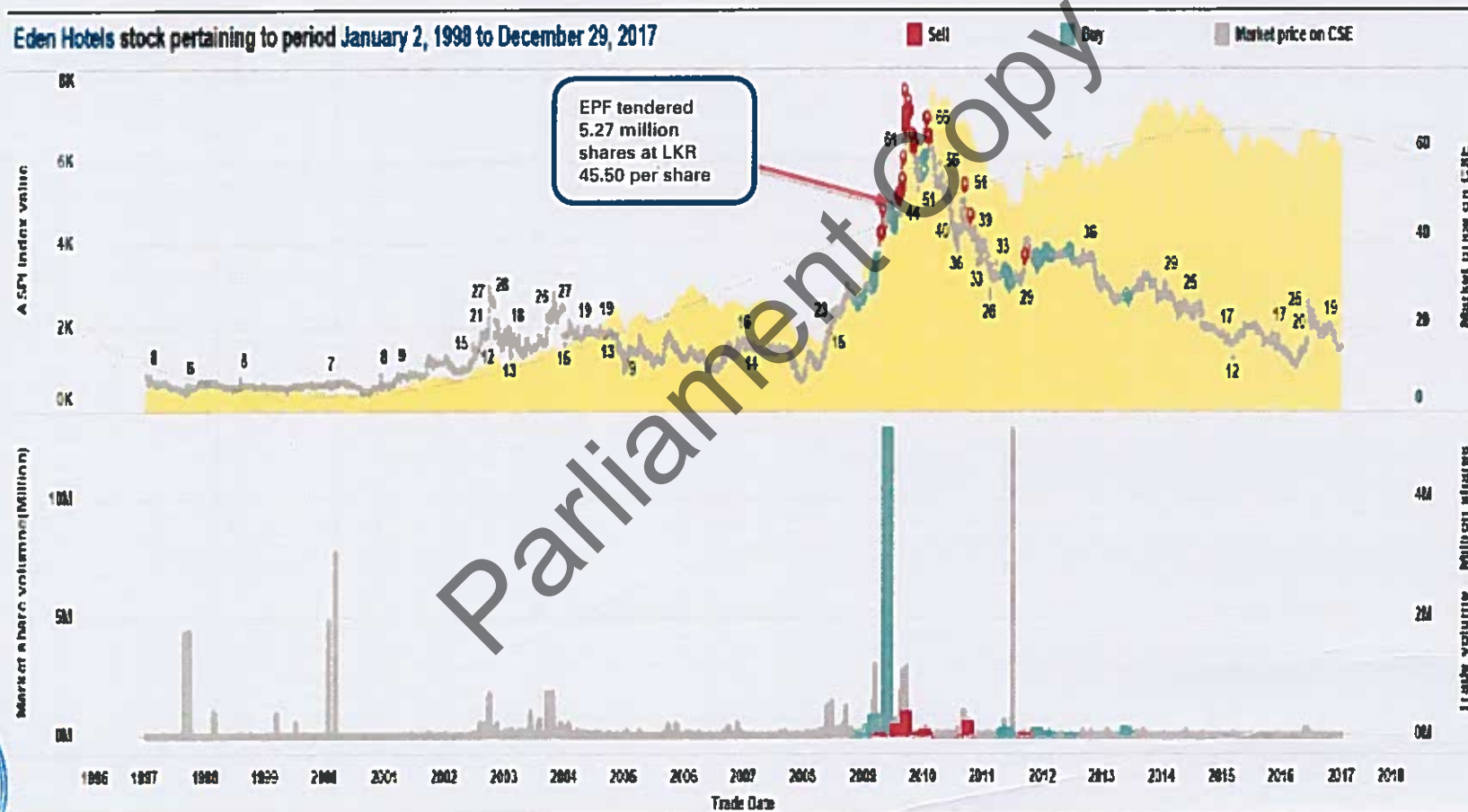




Chart 39: Price movement in Eden Hotels Lanka PLC during 2 January 1998 to 29 December 2017 along with details of EPF trades



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9.17.8 From the above chart the following was noted:

- Share price of Eden gradually increased from LKR 7.75 on 2 January 1998 to LKR 25.75 by 30 December 2009. The price remained rangebound till 4 March 2010 (LKR 28.75) and started rising thereafter to touch LKR 45.50 on 3 June 2010. EPF purchased 5.27 million shares of Eden at LKR 45.50 per share on 4 June 2010. Subsequent to EPF's purchase, the shares steadily rose to LKR 69.60 on 23 September 2010 and thereafter started declining gradually to close at LKR 14.20 on 29 December 2017.
- The price and volume movement in the shares of Eden for immediate 30 days prior<sup>174</sup> to and 30 days subsequent to the purchase transaction of EPF on 4 June 2010 is given below:

**Table 161: Market price movement 30 days prior and post the transaction**

Transaction date	Period <sup>175</sup>	Date from	Date to	Minimum price (LKR)	Maximum price (LKR)	Average price (LKR)
4 June 2010	- 30 days	20 April 2010	3 June 2010	40.50	47.00	43.41
	Price on 4 June 2010			45.50	47.00	46.25
	+30 days	7 June 2010	20 July 2010	40.00	46.00	43.00

Source: CSE market data

9.17.9 From the analysis of price movement, it was observed that the price at which EPF executed the trade was lower by 1.62% than the average market price on the date of EPF trade.

9.17.10 Though the transaction price for Eden was as per IC approved price, no analysis of MO was available to determine the pricing for the purchase transaction on 4 June 2010.

#### Counterparty analysis

9.17.11 It was noted that 5.20 million shares out of the total 6.36 million shares of Eden (purchased by EPF in the investment portfolio during the Review Period), were purchased on 4 June 2010. The details of the counterparty to the above transaction is set out below:

9.17.12 **Table 162: Counterparty details**

Trade Date	Quantity (million)	Amount in LKR million	Name of the counterparty	EPF Broker	Counterparty broker
4 June 2010	5.20	236.60	Confifi Management services (Private) Limited	Taprobane Securities (Private) Limited	Taprobane Securities (Private) Limited

Source: CSE data

<sup>174</sup> Price and quantity analysis is based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction



9.17.13 The concentration in the counterparty, counterparty broker and EPF broker in the transactions in the CGE are given in the chart below:

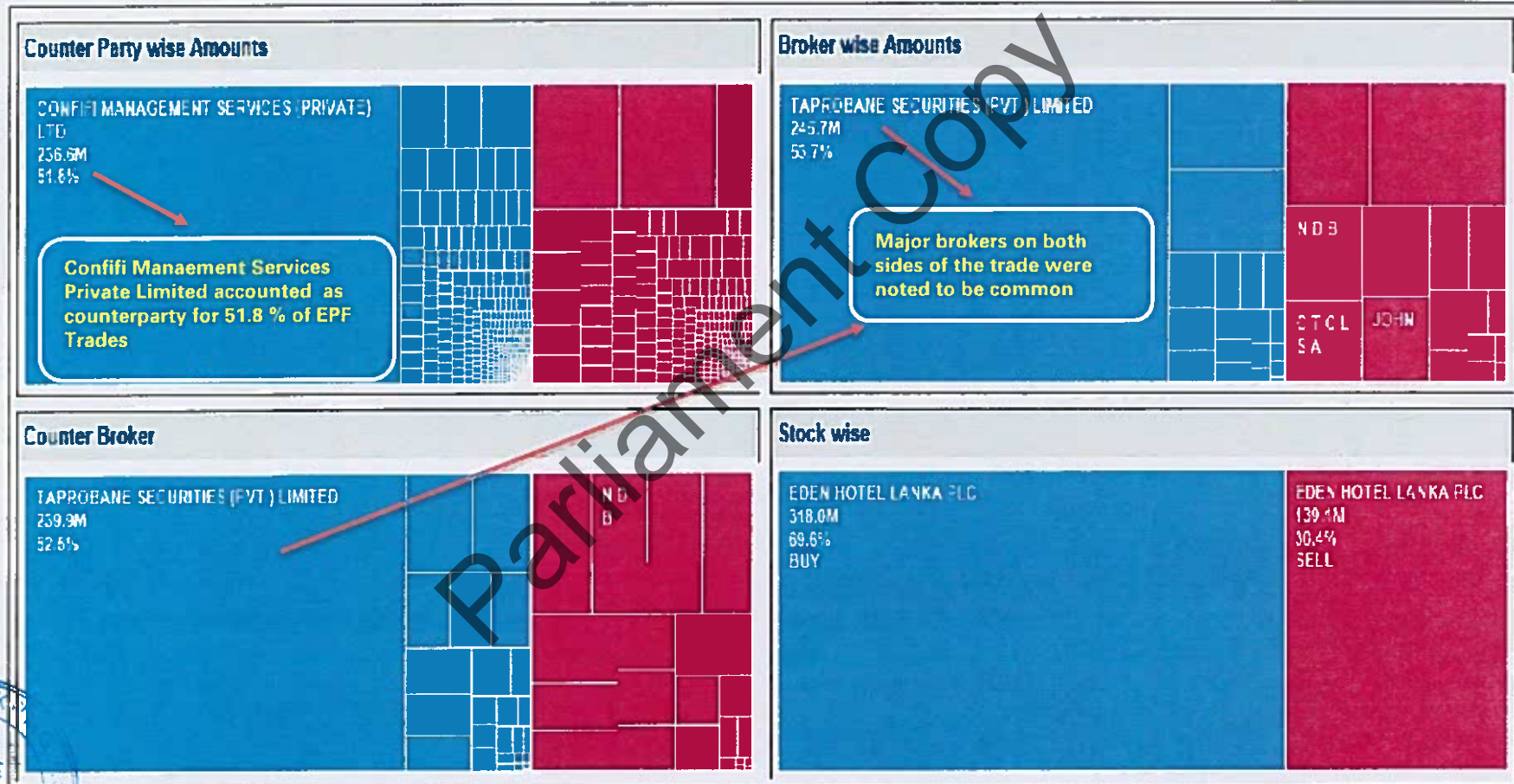
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Chart 40: Details of concertation of counterparty, EPF broker and Counterparty broker in Eden Hotels Lanka PLC





- 9.17.14 No communication between EPF personnel and the broker could be identified since email and voice records for this time-period are unavailable.
- 9.17.15 On review of ROC documents for Confifi Management Services Private Limited (Confifi) it was noted that Eden and Confifi are connected entities. During the year of investment, 2010<sup>176</sup> the following directors and shareholders were common between Confifi and Eden:

**Table 163: Common shareholder and director in counterparty and investee company**

Name	Confifi		Eden	
	Director	Shareholder	Director	Shareholder
Mohammed Thassim Ahamed Furkhan	✓	✓	✓	✓
Stefan Furkhan	✓	✓	✓	✓

Source: ROC data and company financials

- 9.17.16 Mr. Furkhan is currently Chairman of Confifi Capital (Private) Limited and companies related to it and Director of Eden Hotel Lanka PLC since its incorporation in January 1992. He was also observed to be a Director and promoter of Brown Investments PLC. Refer Exhibit 23 for the shareholders and directors in Confifi Management Services.

**Transaction Compliance**

**For addition of the company to ASL**

- 9.17.17 EPF started investing in Eden on 2 December 2009. Eden was added in the ASL through an IC decision dated 28 October 2009 and MB paper dated 17 November 2009. The rationale mentioned in the MB paper for inclusion in the ASL was "the current low prices of the shares open an opportunity to the EPF to collect shares at low prices for the Trading portfolio and realize capital gains in the upcycle of the market". However, no rationale or analysis was available in the IC minutes.

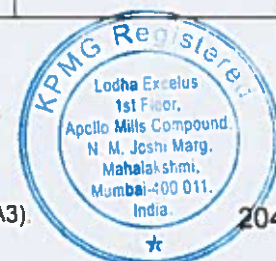
**Subsequent transaction review**

- 9.17.18 EPF's transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG. The following non-compliances to the laid down policy and procedures were noted:
- 9.17.19 Given below is the summary of trades executed by EPF in Eden during the Review Period, deviations noted in the transactions as against the prevalent IPS and ITS and the personnel executing the transactions.

**Table 164: Summary of trades, policy deviations and EPF personnel**

Date	Buy		Sell		Deviation, if any	Personnel
	Quantity (million)	LKR/million	Quantity (million)	LKR/million		
4 June 2010	5.20	236.60	-	-	Yes	

<sup>176</sup> ROC document for annual return of Confifi dated 22 November 2010.



	Buy		Sell		Deviation, if any	Personnel
<b>1 August 2016</b>	-	-	5.06	101.17	Yes	Order placement sheets, share trading approval forms, deal tickets and settlement sheets were not available in the data provided for review
<i>Source: Deal tickets, settlement sheet, approval forms</i>						

- 9.17.20 The IC had approved a purchase of 5 million shares of Eden on 2 June 2010. The transaction was executed on 4 June 2010 for purchase of 5.2 million shares amounting to LKR 236.60 million. Additional purchase of 0.20 million shares was in excess of the quantity approved by the IC and was subsequently ratified by IC.
- 9.17.21 On 1 August 2016, EPF tendered 5.27 million shares in a mandatory offer made by Brown Hotels and Resorts Limited to the shareholders of Eden at a price of LKR 20 per share, which resulted in a net profit of LKR 11.59 million to EPF. However, the profit was on account of reversal of booked impairment loss of LKR 128.41 million and not actual gain to the EPF. Therefore, the total loss on the sale of shares was LKR 116.82 million.

#### **Interview Evidence**

- 9.17.22 KPMG conducted Interviews with the employees existing at the time of investment and the following was noted:

**Table 165: Relevant extracts of interviews with EPF employees**

Name of the person	Role in the Transaction/in EPF	Explanation provided
Mr. W.G.R. Harshapriya	Assistant Superintendent	... "the investment was not handled by him"
Ms. R. Dheerasinghe	Superintendent of EPF	No response was provided
<i>Source: Interviews conducted with the employees</i>		





## 9.18 Raigam Wayamba Saltern Limited

### Background

9.18.1 Raigam Wayamba Salterns PLC (RWS) was incorporated in 2005. It is engaged in manufacturing and distribution of edible and industrial salt and development of salterns. It got listed on the CSE on 29 April 2010.

### EPF's investment in RWS

9.18.2 EPF started investing in RWS in 2010. EPF received a dividend of LKR 15.71 million during the Review Period.

9.18.3 Summary of EPF's transactions in RWS in the 'Trading' and 'Investment' portfolio during the Review Period is given in the table below.

**Table 166: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	33	19.14	72.27	4	1.71	8.40
Investment	43	20.63	86.86	-	-	-
<b>Total</b>	<b>76</b>	<b>39.77</b>	<b>159.13</b>	<b>4</b>	<b>1.71</b>	<b>8.40</b>

Source: SAP data

9.18.4 Summary of all the transactions above LKR 10 million is given below and the list of all transactions above LKR 10 million are provided in Annexure 40.

**Table 167: Transactions above LKR 10 million during the period**

Portfolio	Buy			Sell		
	Transactions	Quantity (million)	LKR (million)	Transactions	Quantity (million)	LKR (million)
Trading	13	11.08	41.16	-	-	-
Investment	7	5.00	22.00	-	-	-
<b>Total</b>	<b>20</b>	<b>16.08</b>	<b>63.16</b>	<b>-</b>	<b>-</b>	<b>-</b>

Source: SAP data

### Impairment losses incurred by EPF in RWS

9.18.5 It was observed that EPF incurred a total impairment loss of LKR 64.38 million for RWS in Investment portfolio and it was recorded in the books of account in 2016.

9.18.6 The loss of LKR 64.38 million was incurred by EPF on its Investment portfolio can be attributed to a purchase transaction carried out by EPF on 3 May 2010. Details of the transaction are mentioned below:

**Table 168: Concentration of transaction**

Date	Purchase quantity (million)	Price (LKR)	Transaction value (LKR million)	Type of transaction	% Transaction value to total transaction value during Review Period
3 May 2010	5.50	4.39	24.15	Normal	15.18%





Date	Purchase quantity (million)	Price (LKR)	Transaction value (LKR million)	Type of transaction	% Transaction value to total transaction value during Review Period
15 October 2014 <sup>177</sup>	6.86	3.36	23.06	Normal	14.49%
30 April 2010 <sup>177</sup>	3.72	4.28	15.94	Normal	10.02%

Source: CSE data

**Price and volume analysis**

9.18.7 Analysis of price and volume data in the shares of RWS shows that the purchases of EPF above LKR 10 million in the Investment portfolio were concentrated during the years 2010. Depicted below is price and volume chart for the shares along with ASPI trend during the period 26 April 2010 to 31 December 2017.

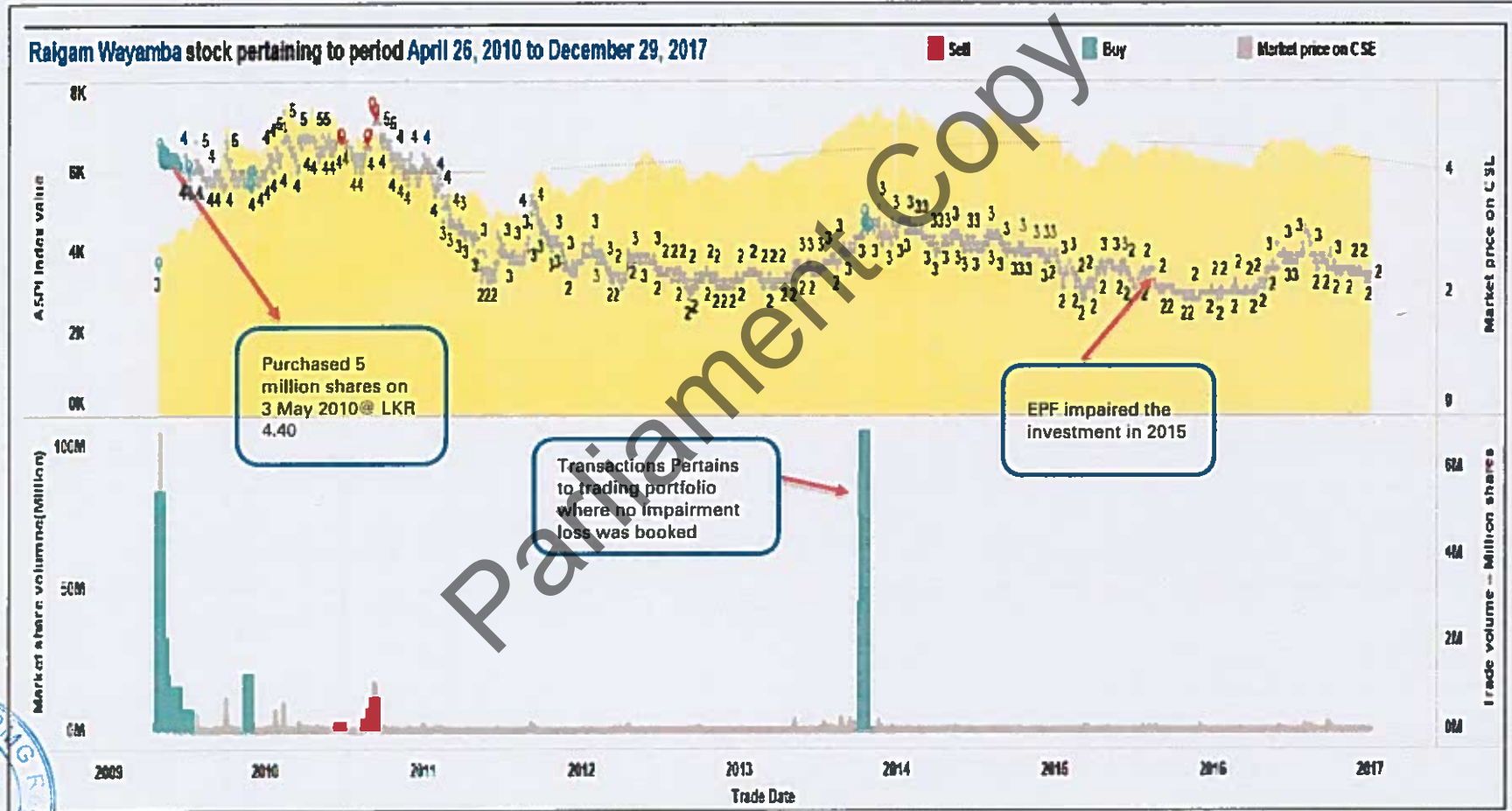
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<sup>177</sup> The transaction was executed in the trading portfolio of the EPF on 15 October 2014 and 30 April 2010. However, no impairment loss was booked for the transactions in trading portfolio.





Chart 41: Price movement in Raigam Wayamba PLC during 26 April 2010 to 29 December 2017 along with details of EPF trades



9.18.8 From the above chart the following was noted:

- RWS listed on CSE on 29 April 2010, opened at a price of LKR 4.70 and closed at LKR 4.30. EPF purchased 5.50 million shares of RWS on 3 May 2010 at an average price of LKR 4.39 and 2.13 million shares a price of LKR 4.20. The share was listed on the Diri Savi Board of CSE.
- Thereafter, the price traded in the range of LKR 3.60 and LKR 5.00 between 7 May 2010 and 13 February 2012. The price subsequently was rangebound and gradually fell to LKR 2.30 by 29 December 2017.
- The movement in the price 30 days prior and after the transaction is given in the table below:

**Table 169: Market price movement 30 days prior and post the transaction**

Transaction Date	Period <sup>178</sup>	Date from	Date to	Minimum price (LKR)	Maximum price (LKR)	Average price (LKR)
3 May 2010	-30 days <sup>179</sup>	29 April 2010	30 April 2010	4.00	5.25	4.25
	Price on 3 May 2010			4.20	4.50	4.35
	+30 days	4 May 2010	16 June 2010	4.00	4.50	4.16

*Source: Market data from CSE*

9.18.9 From the analysis of price movement, it was observed that the price at which EPF executed the trade was

- lower by 0.91% than the average market price on 3 May 2010

**Counterparty analysis**

9.18.10 Analysis of the transactions above 10 million shows that there were no crossing transactions entered by the EPF for purchase or sale of this scrip. Further, there were multiple counterparties to these transactions and were executed by multiple brokers in the normal market on CSE.

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<sup>178</sup> Price analysis is based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction.

<sup>179</sup> Market price data is available from 29 April 2010 as the company was listed on 29 April 2010.





**Project Diamond  
Final Report**

Strictly private and confidential  
November 2019

**Chart 42: Details of concentration of counterparty, EPF broker and Counterparty broker in Raigam Wayamba Salterns PLC**

Counter Party wise Amounts				Broker wise Amounts				
MRS. W J S PERERA 14.3M 9.6%				SECONDB STOCK BROKERS (PRIVATE) LIMITED 19.3M	SOFTLOGIC	CAPROBANE SECURITIES (PVT.) LIMITED	FIRST CAPITAL EQUITIES	5 C
MR. T LALIMIAZ 10.1M				CANGA SECURITIES LTD 3M	J B SECURITIES (PVT) LTD 11.2M	ASHA SECURITIES (PVT) LTD	FIRST GUARDIAN EQUITIES	ASHA
						LANKA SECURITIES	BARTLETT RELIGARE	
Counter Broker				Script wise				
CAPITAL ALLIANCE SECURITIES (PVT) LTD 19.5M 11.7%	ASHA PHILLIP SECURITIES LIMITED 15.2M	ACUVY	NDB	RAIGAM WAYAMBA SALTURNS PLC 158.7M 93%				
	ASHA SECURITIES (PVT) LTD	BARTLETT RELIGARE SECURITIES	ENTRUST CAPITAL MARKETS					
CAPITAL TRUST SECURITIES (PRIVATE) LIMITED	LANKA SECURITIES (PVT)	J B SECURITIES	NATION LANKA EQUITIES					



**Transaction compliance**

**For addition of the company to ASL**

- 9.18.11 RWS was approved by the Investment committee on 17 March 2010 and EPF was allotted shares of RWS on 7 April 2010. The MB ratified the said investment on 19 May 2010. However, approval of the Governor as required in the absence of MB approval as per ITG 2007 was not available on records.
- 9.18.12 Trading Portfolio: EPF started trading in RWS in its trading portfolio in the year 2010. The first transaction in the trading portfolio was executed on 29 April 2010. It was noted that approval for inclusion of the company in the ASL of trading portfolio was neither available in the IC minutes nor in the MB papers. Further, no evidence of Governor's prior approval was available in this regard, resulting in a violation of ITG 2007.

**Other Non-compliances noted**

- 9.18.13 From the documents available for review, it was observed that in the IC meeting dated 12 March 2010, MO made a brief presentation on the IPO of RWS. IC instructed the EPF to further study and make a presentation on the same. Before the presentation was made by the MO, Ms. K Gunathilake, then Additional Superintendent of EPF, withdrew from the IC meeting declaring her personal interest in the company. Refer Exhibit 24 for IC minutes dated 12 March 2010.
- 9.18.14 Subsequently, in the IC meeting dated 17 March 2010, MO made a presentation and proposed to the IC for subscription to the IPO for investing LKR 20 million. Accordingly, the IC approved the proposal and instructed the MO to submit a Board paper in this regard for the approval of the Monetary Board. Refer Exhibit 24 for IC minutes dated 12 March 2010.
- 9.18.15 However, in the meeting held on 17 March 2010 approving investment in, Ms. K. Gunathilake did not withdraw her participation and was present in the meeting.
- 9.18.16 On review of the CSE data and the economic statement of interest submitted by Ms. Gunathilake it was noted that Ms. K. Gunathilake and members of her family had transacted in the shares of RWS on multiple occasions. Refer Exhibit 25 for statement of economic interest of Ms. K. Gunathilake. Further, it was noted that her husband Mr. P.L.S. Gunathilake was the seller of 0.01 million shares to EPF. Details of the transactions are provided in the table below:

**Table 170: Transactions by Mr. P.L.S. Gunathilake**

Trade date	Counterparty name	Quantity (million)	Amount of investment (LKR in million)	Transaction type	EPF Broker	Counter Broker name
19 May 2010	Mr. P.L.S. Gunathilake	0.01	0.04	Normal	Serendib Stock Brokers (Private) Limited	Asia Securities (Pvt) Ltd



9.18.17 KPMG conducted interviews with the personnel involved in the transaction as mentioned above and the following was noted:

**Table 171: Relevant extracts of interviews with EPF employees**

Name of the person	Role in the Transaction	Explanation provided
Ms. K Gunathilake	Additional Superintendent	<p>.... "was not part of the decision and had no influence considering that her brother was Raigam Wayamba Salterns chairman".</p> <p>.... "didn't know if (conflict) it had to be declared every time"</p> <p>... " at a point of time there was no concept of blue chip stocks. New companies would also invite EPF to invest in their stock and the investments of the EPF in its portfolio were no concentrated only on the blue chip stocks"</p>
Mr. B.D.W.A. Silva	Assistant Governor	"Due to unavailability of the other Deputy Governor at that time and he has signed the Board Paper. He was not handling the Raigam Wayamba Salterns PLC case."
Dr. P. N. Weerasinghe	Deputy Governor	"... he had received a request for the deal and he instructed the EPF to analyze the investment and present the investment recommendation. The investment was approved on the basis of the recommendation and presentation made by the staff of EPF. The overall strategy while investing in equity was to reduce the overall weighted average cost of the companies already existing in the portfolio and simultaneously improve the performance by looking for good opportunities to invest in companies in the existing portfolio."

Source: Interviews conducted with the employees

Parliamentary Commission





## 9.19 PC House PLC

### Background

- 9.19.1 PC House PLC (PC House) was established in the year 2000. It was one of the largest retailers of the computers and was owned and managed by Mr. S. H. M. Rishan. It was listed on the CSE on 26 August 2010.
- 9.19.2 PC House were delisted from the CSE with effect from 19 July 2019. The company was delisted<sup>180</sup> as per rule 4(2) of the rules made by the Securities Exchange Commission of Sri Lanka (SEC) under section 53 of SEC act no 36 of 1987 via gazette extraordinary no 1215/2 dated 18 December 2001. Refer Exhibit 26 for delisting notice for PC House.

### EPF's investment in PC House

- 9.19.3 EPF started investing in PC House in 2010. EPF had initially purchased the shares of PC House on 23 August 2010 as a part of Initial Public Offer (IPO) post approval from the IC on 10 August 2010. All the shares were bought in the Trading portfolio of the EPF. Summary of EPF's transactions in PC House in the 'Trading' and 'Investment' portfolio during the Review Period is given in the table below.

**Table 172: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading <sup>181</sup>	17	7.91	36.24	3	11.69 <sup>182</sup>	7.39
Investment	-	-	-	-	-	-
<b>Total</b>	<b>17</b>	<b>7.91</b>	<b>36.24</b>	<b>3</b>	<b>11.69</b>	<b>7.39</b>

Source: SAP data

- 9.19.4 Summary of all the transactions above LKR 10 million is given below and the list of all transactions above LKR 10 million are provided in Annexure 41.

**Table 173: Summary of transactions above LKR 10 million**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	1	3.23	12.36	-	-	-
Investment	-	-	-	-	-	-
<b>Total</b>	<b>1</b>	<b>3.23</b>	<b>12.36</b>	<b>-</b>	<b>-</b>	<b>-</b>

Source: SAP data

<sup>180</sup> [https://cdn.cse.lk/cmt/upload\\_cse\\_report\\_file/circulars\\_248\\_19-07-2019.pdf](https://cdn.cse.lk/cmt/upload_cse_report_file/circulars_248_19-07-2019.pdf)

<sup>181</sup> Trading portfolio includes transactions for subscription of rights shares for PC house PLC.

<sup>182</sup> A total of 3.77 million right issues were made in the year May 2013. The shares were purchased for LKR 3.00 per share.

**Realised losses incurred by EPF in PC House**

9.19.5 It was observed that EPF incurred a total loss of LKR 42.80 million in PC House on sale of shares on 22 January 2016. The details of this loss transaction recorded in the books of accounts of EPF for PC House are given below.

**Table 174: Loss on sale of shares of PC House**

Trade date	Quantity (in million)	Amount (in LKR million)	Loss on sale (in LKR million)
22 January 2016	11.32	1.13	42.80

Source: SAP Data provided by EPF department

**Price volume analysis**

9.19.6 Analysis of price and volume data in the shares of PC House shows that the purchases of EPF above LKR 10 million in the Trading portfolio were concentrated during the year 2013. EPF purchased 3.23 million shares on 14 March 2013 contributing to 34.12% of total value of purchases during the entire Review Period.

9.19.7 **Table 175: Concentration of transactions**

Date	Quantity (million)	Price (LKR)	Transaction value (LKR million)	% transaction value of EPF to market value (In the shares on that day)	Type of transaction	% transaction value to total purchases during Review Period
14 March 2013	3.23	3.83	12.36	86.67%	Normal	34.12%

Source: CSE data

9.19.8 None of the sale transactions in the Trading portfolio of PC House were observed to be in excess of LKR 10 million

9.19.9 Given below is price and volume chart for the shares along with ASPI trend during the period 23 August 2010 to 28 December 2017:

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- 9.19.10 The movement in the price 30 days prior and after the transaction is given in the table below:

**Table 176: Market price movement 30 days prior and post the transaction**

Transaction Date	Period	Date from	Date to	Minimum Price (LKR)	Maximum Price (LKR)	Average Price (LKR)
14 March 2013	- 30 days	29 January 2013	13 March 2013	3.70	5.30	4.54
	Price on 14 March 2013			3.80	4.10	3.95
	+30 days	15 March 2013	2 May 2013	2.80	3.80	2.96

**Counterparty analysis**

- 9.19.11 Analysis of the counterparties to the transactions mentioned above shows that the major counterparty to the EPF purchase transaction was Mr. M.R.M. Nawas (Comprising 50.80% of total purchase value). The counterparty details of such transactions are given below.

**Table 177: Counterparty details for purchase transactions**

Period	Name of the counterparty	Quantity (in million)	Amount (in LKR million)	Percentage
8 February 2013 – 14 March 2013	Mr. M.R.M. Nawas	4.75	20.15	50.80 %

Source: CSE and SAP data

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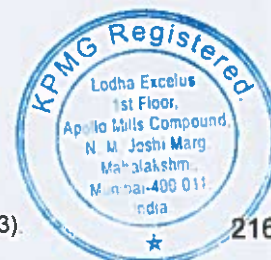
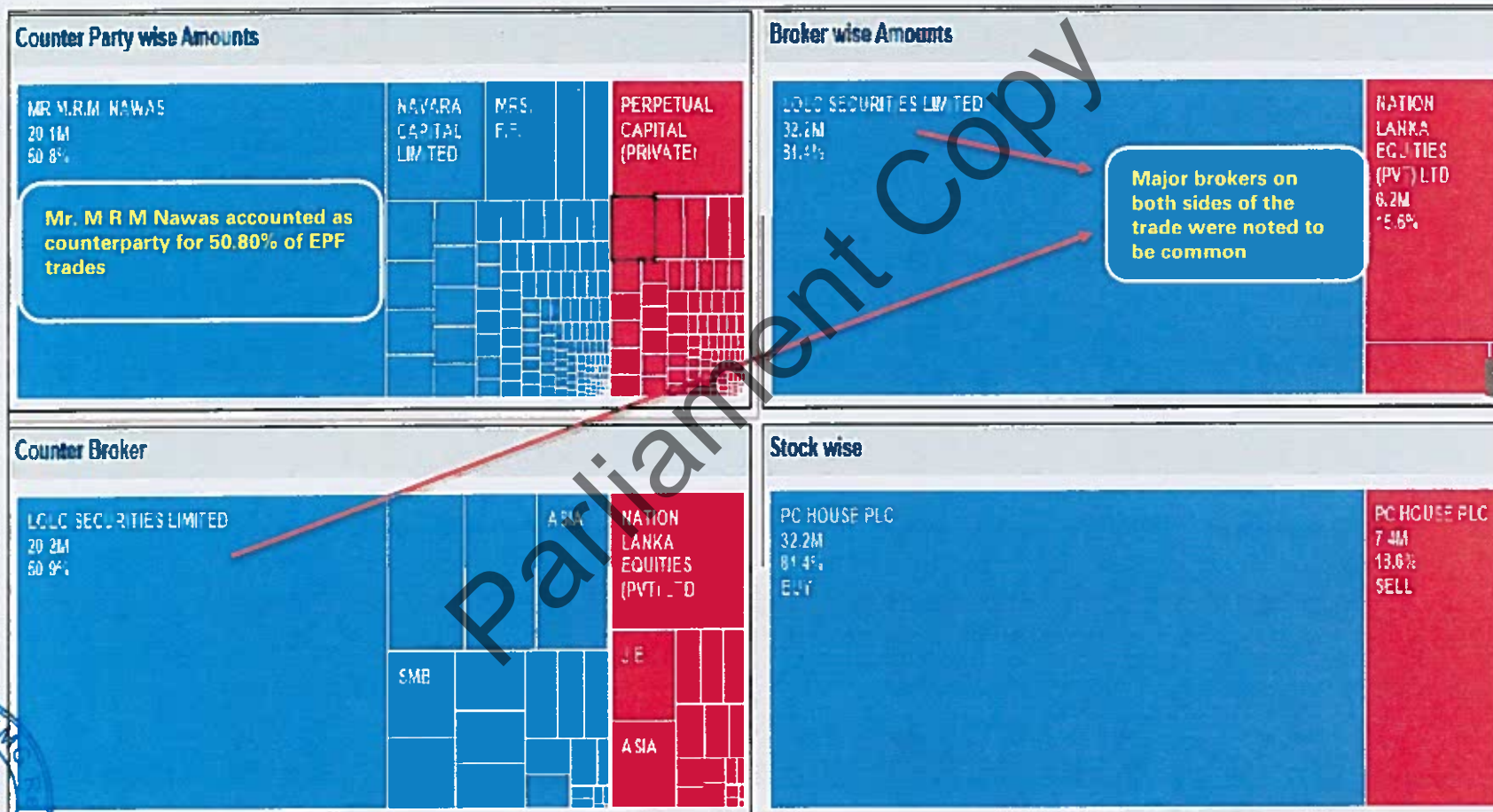




Chart 44: Details of concentration of counterparty, EPF broker and Counterparty broker in PC House PLC





- 9.19.12 Public domain searches were conducted on Mr. M.R.M. Nawas appearing as the counterparty for the EPF trades as mentioned above. However, no adverse information related to the individual was noted.
- 9.19.13 Keyword search on emails data of EPF personnel did not reveal any relevant observations, whereas telephonic communication between EPF personnel and the broker for period prior to 2017 were not available.

**Transaction Compliance**

**For addition of the company to ASL**

- 9.19.14 The EPF had invested LKR 4.00 million in the IPO of PC House on 5 August 2010. No details for inclusion of PC House in the ASL were available. The MB ratified the investment on 21 September 2010.

The following points were noted with regards to the initial investment in PC House:

- 9.19.15 Contradictory recommendations of IC for investment in the IPO:
  - IC on 30 July 2010 did not recommended to invest in the IPO for PC house PLC since "EPF did not have a fair understanding of the governance of the Company. Further, IC noted that the performance of PC House PLC may not be attractive enough to hold the stock in the EPF long term portfolio". Refer Exhibit 27 for IC minutes.
  - IC minutes of meeting dated 10 August 2010 provided "Subsequent to the IC meeting held on July 30, 2010, the Management of EPF discussed about the EPF's past experience of making considerable capital gains through IPO investments and decided to apply for 2 million shares of PC House Ltd. From its IPO, which amounts to Rs 22 million investment" However, no information regarding governance issues was provided. Refer Exhibit 28 for IC minutes.
  - All IC members were same in both the meetings.
  - Out of LKR 22 million invested, 0.36 million shares of LKR 4.00 million was allotted in the IPO.
- 9.19.16 The MB ratified the said investment on 21 September 2010
  - No rationale for the purchases was recorded in the board paper or in the IC minutes for ratification of the investment.
  - On review of the financial information for PC House PLC, it was noted that the company was incurring losses before the EPF purchasing the scrip in the trading portfolio. The losses of the company were as follows:

**Table 178: Losses in financial statements of PC House**

Particulars	(LKR million)				
	2012-2013 First Quarter	2012-2013 Second Quarter	2012-2013 Third Quarter	2012-2013 Fourth Quarter	2013-2014 First Quarter
<b>Net loss</b>	1.79	(5.23)	9.12	(395.04)	(158.46)
<i>Source: Information obtained from public domain</i>					





### Subsequent transaction review

- 9.19.17 The EPF sold the entire investment of 0.36 million shares in the month of January 2011 and June 2011 resulting in the following capital gains as per the SAP data:

**Table 179: Capital gains in PC House on sale of IPO purchase**

Trade date	Quantity (in million)	Amount (in LKR million)	Profit (in LKR million)
10 January 2011	0.36	6.17	2.21
20 June 2011	0.00 <sup>183</sup>	0.08	0.04
<b>Total</b>	<b>0.36</b>	<b>6.25</b>	<b>2.25</b>

*Source: SAP data provided by EPF*

- 9.19.18 The EPF had sold all its initial holding by the end of June 2011. In 2013, EPF started purchasing the shares in the trading portfolio since 8 February 2013 and purchased 7.54 million shares of PC house in 16 transactions. Out of the 16 transactions only one transaction was above the transaction threshold of 10 million in a day. The details of the transaction are as follows:

**Table 180: Details of transaction above LKR 10 million**

Transaction date	Quantity (in million)	Amount (in LKR million)	Name of the person executing the transaction <sup>184</sup>
14 March 2013	3.23	12.36	Mr. W.G.R. Harshapriya – Dealer Mr. L.D.D.Y. Perera – Additional S/EPF

*Source: SAP data provided by EPF department and daily trading approval sheets*

- 9.19.19 The said transaction was within the EPF FO limit of LKR 30.00 million in a day and was ratified by the IC on 21 March 2013.

### Interview Evidence

- 9.19.20 Interviews were conducted with employees and some important statements related to investment in PC House, instructions for the transaction and knowledge about the counterparty were obtained. The following was stated:

**Table 181: Relevant extracts of interviews with EPF employees**

Name of the person	Role	Explanation provided
Mr. W.G.R. Harshapriya	Dealer	<i>“..the investment was evaluated by the Middle Office and financials of PC House, which were used, were of a prior period due to a lag in financial reporting of the company. Based on latest available financials, PC House was a profitable company and the Middle Office hence considered it positive for recommending the investment. The COPE had raised a query, as the financials just before the investment showed a loss in the company. Even though the investment</i>

<sup>183</sup> 3800 shares

<sup>184</sup> The transaction was pertaining to trading portfolio



Name of the person	Role	Explanation provided
		<i>was taken within the trading limits, the approval for investment was taken prior to investment"</i>
<b>Mr. L.D.D.Y. Perera</b>	<b>Additional Superintendent</b>	No specific response was provided

**Source: Interviews conducted with the employees**

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## 9.20 Mackwood Energy PLC

### Background

9.20.1 Mackwood Energy PLC (Mackwood) was incorporated in 1979. The company was engaged in the provision of energy solutions covering a range of products and services. Mackwood was listed on the CSE on 25 April 2012.

### EPF's investment in Mackwood

9.20.2 Mackwood was added in the ASL through an IC decision dated 21 March 2012. EPF started investing in Mackwood in April 2012. EPF received a dividend of LKR 0.70 million during the Review Period.

9.20.3 Summary of EPF's transactions in Mackwood in the 'Trading' and 'Investment' portfolio during the Review Period is given in the table below.

**Table 182: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	4	2.08	15.59	-	-	-
Investment	1	1.43	20.00	-	-	-
<b>Total</b>	<b>5</b>	<b>3.51</b>	<b>35.59</b>	<b>-</b>	<b>-</b>	<b>-</b>

Source: SAP data

9.20.4 Summary of all the transactions above LKR 10 million is given below and the list of all transactions above LKR 10 Million are given below:

**Table 183: Transactions above LKR 10 million<sup>185</sup> during the period**

Portfolio	No. of Transactions	Buy		No. of Transactions	Sell	
		Quantity	LKR (million)		Quantity	LKR (million)
Trading	-	-	-	-	-	-
Investment	1	1.43	20.00	-	-	-
<b>Total</b>	<b>1</b>	<b>1.43</b>	<b>20.00</b>	<b>-</b>	<b>-</b>	<b>-</b>

Source: SAP data

### Losses incurred by EPF in Mackwood

9.20.5 It was observed that EPF incurred a total impairment loss of LKR 16.86 million in Mackwood. The years in which EPF recorded impairment loss in its books are shown in below table.

**Table 184: Impairment loss recorded by EPF**

Year	Amount of impairment (LKR /million)
2015	(12.86)
2017	(4.00)
<b>Total</b>	<b>(16.86)</b>

Source: SAP data provided by EPF

<sup>185</sup> Transactions reviewed as per scope mentioned in EL/contract dated 16 April 2019



- 9.20.6 The entire loss of LKR 16.86 million was incurred by EPF on its Investment portfolio can be attributed to a single purchase transaction carried out by EPF on 19 April 2012. Details of the transaction are mentioned below:

**Table 185: Concentration of transaction**

Date	Purchase quantity (million)	Price (LKR)	Transaction value (LKR million)	Type of transaction	% Transaction value to total transaction value during Review Period
19 April 2012	1.43	14.00	20.00	Initial Public Offer	56.20 %
Source: CSE data					

**Price and volume analysis**

- 9.20.7 EPF invested in Mackwood through its Initial Public Offer in April 2012 at LKR 14 per share. On price volume analysis for the shares of Mackwood a downward movement in the price was noted which depicted a consistent fall post September 2012. Given below is price and volume chart for the shares during the period 25 April 2012 to 29 December 2017

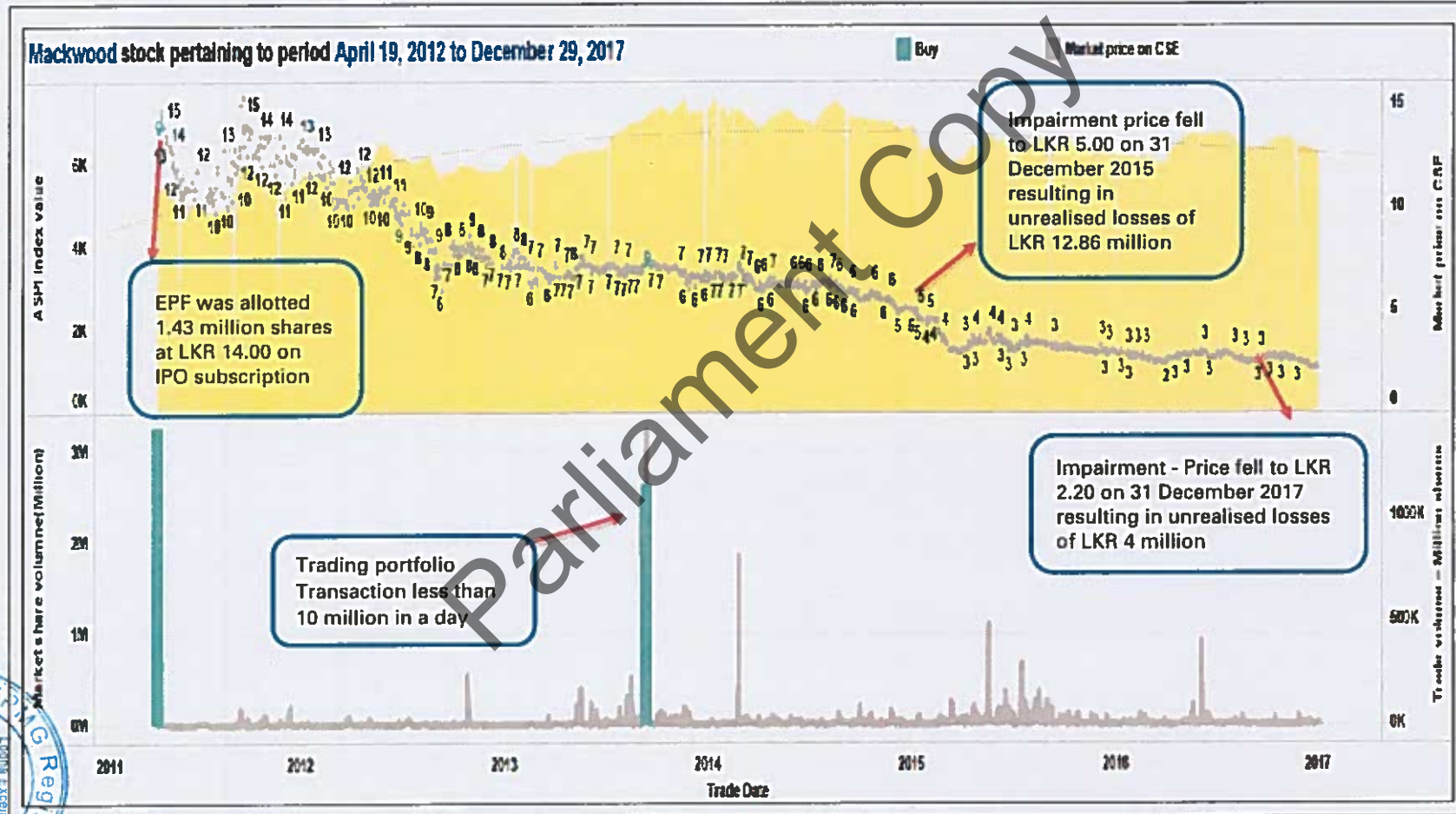
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Chart 45: Price movement in Mackwood Energy PLC during 19 April 2012 to 29 December 2017 along with details of EPF trades



9.20.8 From the above chart the following was noted:

- Mackwood listed on CSE on 19 April 2012, opened at a price of LKR 14.00 and closed at LKR 14.70. EPF was allotted 1.43 million shares of Mackwood in the IPO. Thereafter, the price was rangebound and touched a high of LKR 15.30 on 17 September 2012. The price subsequently fell to LKR 2.22 by 29 December 2017
- The price movement in the shares of Mackwood for 30 days subsequent to the subscription to the IPO by EPF is given below –

**Table 186: Market price movement 30 days prior and post the transaction**

Transaction Date	Period <sup>186</sup>	Date from	Date to	Minimum price (LKR)	Maximum price (LKR)	Average price (LKR)
19 April 2012 <sup>187</sup>	+30 days	26 April 2012	14 June 2012	10.00	14.80	11.93

**Counterparty analysis**

9.20.9 In case of investment in Mackwood, EPF was allotted shares on a subscription made in the IPO hence there were no counterparty for the said transaction.

**Transaction compliance**

9.20.10 EPF's transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG.

**For addition of the Company to ASL**

9.20.11 The IC approval was obtained on 21 March 2012. On review of the documents provided by EPF for review, it was noted that the approval of the Governor, Mr. Ajith Nivard Cabraal was obtained for subscription to the IPO of Mackwood on 22 March 2012. An internal approval note post approval of the IC for investment was signed by the Governor. Refer Exhibit 29 for the internal approval note.

9.20.12 Ratification<sup>188</sup> of the Monetary Board was obtained on 5 April 2012. A detailed analysis for subscription to the IPO of Mackwood was submitted to the Monetary Board citing prospects and an upside potential for the company based on the intrinsic value calculated by price earning based valuation method.

9.20.13 The intrinsic value was estimated to be LKR 17.60 as against the IPO offer price of LKR 14 per share.

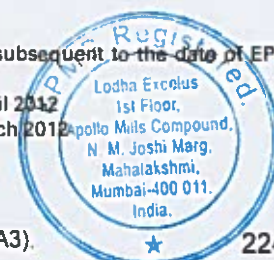
**For subsequent transactions in the trading portfolio**

9.20.14 All subsequent transactions were below the transaction threshold of LKR 10 million in a day.

<sup>186</sup> Price analysis is based on details provided by CSE 30 trading days prior and subsequent to the date of EPF transaction

<sup>187</sup> The company was listed on the stock exchange and started trading from 25 April 2012

<sup>188</sup> Ratification was obtained as the subscription to the shares was done on 21 March 2012







***Interview Evidence***

- 9.20.15 KPMG conducted interviews with the personnel in EPF regarding transaction in Mackwood. However, considering no adverse findings, the employees did not offer any comments on the same.

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## 9.21 Dialog Telekom

### Background

9.21.1 Dialog Axiata PLC (Dialog) formerly known as Dialog Telekom Ltd. was incorporated in 1993. Dialog provides mobile telephony services, internet services and external gateway operations. It got listed on the CSE on 28 July 2005<sup>189</sup>.

### EPF's investment in Dialog

9.21.2 EPF started investing in Dialog during the year 2005 through an IPO. MB approved the investment in Dialog on its meeting dated 28 June 2005. EPF received a dividend of LKR 372.51 million during the Review Period.

9.21.3 Summary of EPF's transactions in Dialog in the 'Trading' and 'Investment' portfolio during the Review Period is set out in the table below:

**Table 187: Summary of all transactions during the Review Period**

Portfolio	Buy			Sell		
	No. of Transactions	Quantity (million)	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	65	34.66	332.18	41	34.03	364.69
Investment	421	316.89	2,962.88	124	169.33	2,215.09
<b>Total</b>	<b>486</b>	<b>351.55</b>	<b>3,295.06</b>	<b>165</b>	<b>203.36</b>	<b>2,579.78</b>

Source: SAP data

9.21.4 Summary of all the transactions above LKR 10 million is given below and the list of all transactions above LKR 10 million are provided in Annexure 42.

**Table 188: Transactions above LKR 10 million**

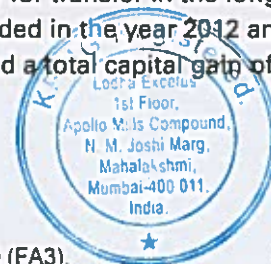
Portfolio	Buy			Sell		
	No. of Transactions	Quantity	LKR (million)	No. of Transactions	Quantity (million)	LKR (million)
Trading	21	27.90	266.48	17	28.66	317.20
Investment	208	288.13	2,658.96	34	160.83	2,053.37
<b>Total</b>	<b>229</b>	<b>316.03</b>	<b>2,925.44</b>	<b>51</b>	<b>189.49</b>	<b>2,370.57</b>

Source: SAP data

### Losses recorded by EPF in Dialog

9.21.5 It was observed that EPF recorded a total loss of LKR 5.75 million in its books for Dialog on 31 December 2012. The entire loss of LKR 5.75 million was incurred by EPF on its Investment portfolio while transferring the shares from the short term portfolio under the accounting code (50014) to the long term portfolio under the new accounting head (50118). Since the short term portfolio is to be recorded at marked to market price, the sale entry under the accounting head (50014) was recorded at market price while recognizing a book loss of LKR 5.75 million. The purchase entry for transfer in the long term portfolio (50118) was recorded at cost. The loss was recorded in the year 2012 and hence transactions prior to 2012 were reviewed. EPF has booked a total capital gain of

<sup>189</sup> Source: Colombo Stock Exchange website ([www.cse.lk](http://www.cse.lk))





LKR 441.60<sup>190</sup> million during the period during the period 1 September 2006 to 31 December 2017.

**Price and volume analysis**

- 9.21.6 Analysis of price and volume data in the shares of Dialog shows that the purchases of EPF above LKR 10 million in the Investment portfolio were during the years 2010 and 2011. However, there was no concertation noted on a single day of more than 10% of the total purchases.
- 9.21.7 Set out below is price and volume chart for the shares during the period 28 July 2005 to 29 December 2017:

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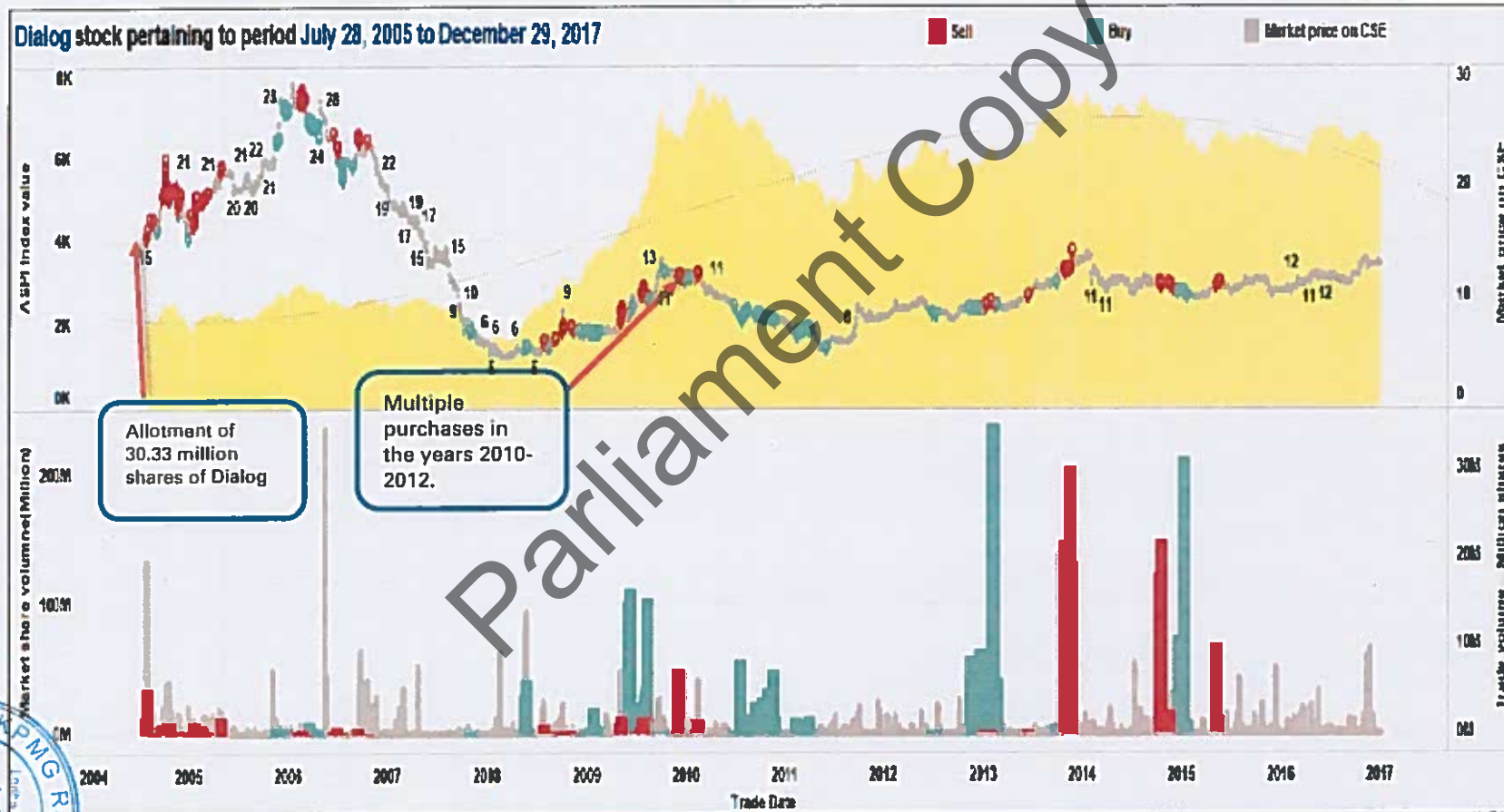
<sup>190</sup> Capital gain is computed excluding the accounting entry for loss (LKR 5.75 million)







Chart: 46: Price movement in Dialog Axiata PLC during 28 July 2005 to 29 December 2017 along with details of EPF trades:



- 9.21.8 Post allotment of 30.33 million shares on 28 July 2005 on subscription to the IPO the major purchases of Dialog were concentrated during 2010 and 2011 contributing to a total of 73.61% of the total purchases made during 2005 to 2012. Majority of the sales in this period were made during the years 2005, 2006 and 2010.
- 9.21.9 The average purchase price of EPF for Dialog during 2010, 2011 and 2012 was LKR 8.55. It was noted that the price of Dialog was on an upward trend from 2005 till 2007 post which it adopted a downward trend. In May 2012 the price fell to LKR 5.10, by the end of 2012 the price showed a recovery trend.

### Counterparty analysis

- 9.21.10 CSE data was analysed to identify crossing transactions, major counterparties and broker concentration. Since EPF recorded the loss on 31 December 2012 a detailed analysis was done for transactions from 2005 to 2012. However, no major concentration was noted in the counterparties. Below table shows the broker concentration during the period 2005 to 2012:

**Table 189: Counterparty concentration upto 31 December 2012<sup>191</sup>**

Name of the broker	Quantity (million)	Value (LKR /million)	% transaction value to total transaction value
HSBC Intl Nom Ltd-SSBT- South Asia Portfolio	16.74	190.04	7.85%
Northern Trust Co S/A-Northern Trust Fiduciary Services (Ireland) Ltd as Trustee To Baring Asean Frontiers Fund	19.00	154.62	6.38%
Bank of Ceylon A/c Caybank Unit Trust	14.90	144.26	5.96%
HSBC Intl Nom Ltd-SSBT- National Westminster Bank Plc as Depository Of First State Global Emerging Markets Fund A Sub Fund Of First State Investments ICVC	12.41	121.43	5.01%

Source: CSE data

The concentration in the counterparty, counterparty broker and EPF broker in the transactions in Dialog is given in the chart below.

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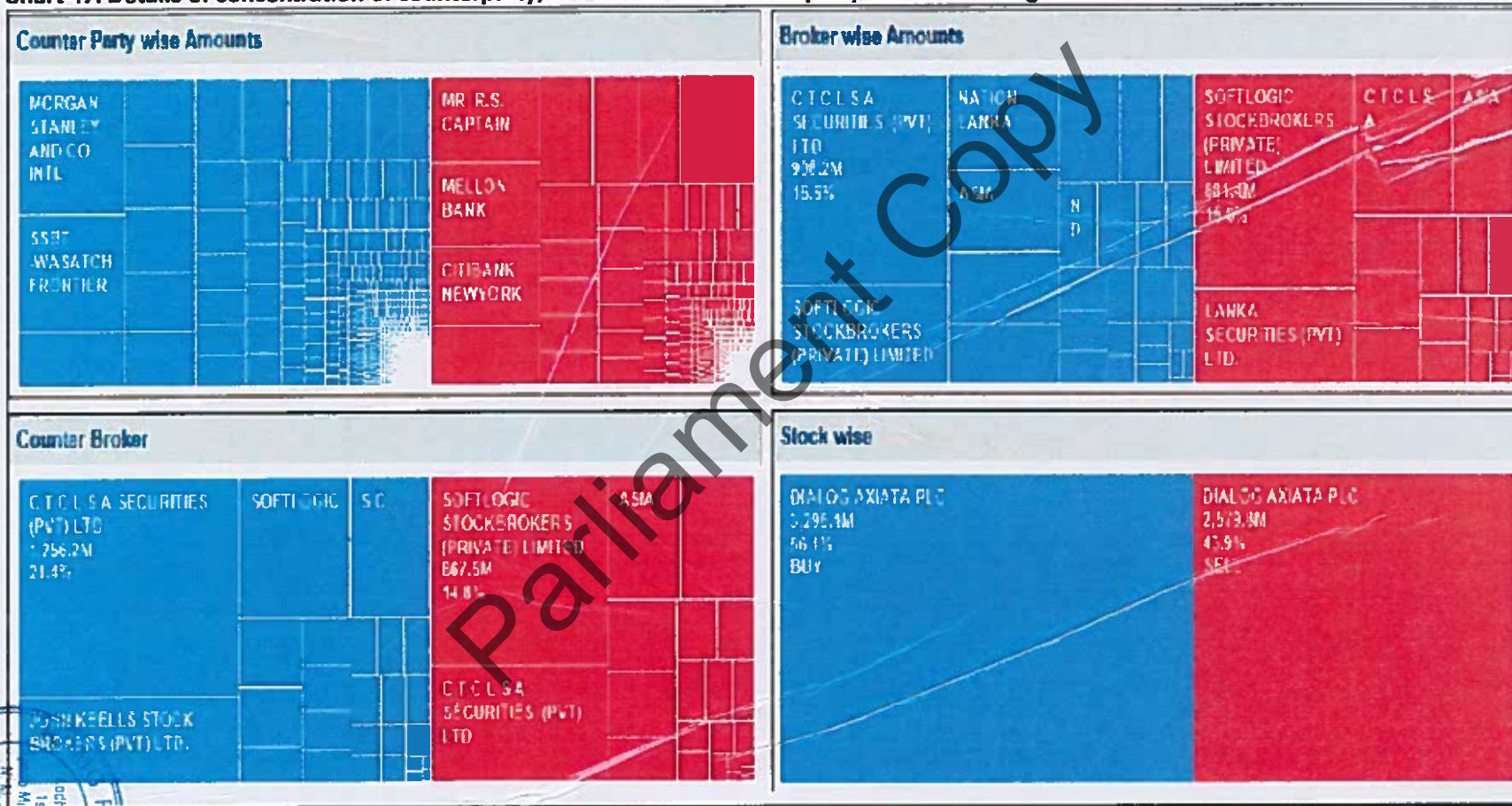
<sup>191</sup> As loss was booked in the SAP on 31 December 2012 on account of transfer entry







Chart 47: Details of concentration of counterparty, EPF broker and Counterparty broker in Dialog Axiata PLC.





### Transaction Compliance

#### Initial transaction review

- 9.21.11 As per IPS 2002, there was no specific policy for including a scrip in the ASL for investments/trading by the EPF. IC recommended EPF to invest in the IPO of Dialog post which approval from the Governor and MB was obtained.

**Table 190: Approval dates**

Particulars	IC Approval	MB Approval	Governor Approval
Investment in Dialog	20 June 2005	28 June 2005	22 June 2005
<i>Source: IC and MB minutes</i>			

#### Subsequent transaction review

- 9.21.12 EPF's transactions above LKR 10 million were reviewed for adherence to the laid down IPS and ITG. On review of the SAP data, 280 transactions above LKR 10 million were identified and tested for Dialog. The below table is a summary of the non-compliant transactions out of the transactions tested above LKR 10 million:

**Table 191: Non-compliances**

Criteria	Count	% of total	Value (LKR million)	% of total
Transaction not pre-approved by the IC	23	8.21%	631.90	12.02%
Transactions not as per IC plan	24	8.57%	636.58	11.93%
Transaction not ratified in Trading portfolio	2	0.71%	15.73	0.30%
<b>Total</b>	<b>49</b>	<b>17.49%</b>	<b>1,284.21</b>	<b>24.25%</b>

Details of the non-compliant transactions are set out in Annexure 43.

- 9.21.13 Breach of trading limits for trading portfolio: On review of the transactions in the trading portfolio, it was noted that a total of 6 transactions across 3 days out of 106 transactions in the trading portfolio during the Review Period were not in compliance to the limits set out in ITG 2007, ITG 2011 and the limits revised by the MB from time to time. Approvals for executing the transaction in excess of the trading limits were not found on records in the documents provided for review. The details of the transactions have been highlighted in Annexure 34.

#### Interview Evidence

- 9.21.14 Interviews were conducted with the personnel present in EPF during the investment period and the following was noted:



**Table 192: Relevant extracts of the Interviews with EPF employees**

Name of the person	Role in the Transaction	Explanation provided
Mr. P.D.J. Fernando	Deputy Governor	"...Mr. Fernando explained that according to his views it was one of the best companies and continues to be so."
Source: Minutes of discussion with EPF employees		

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## 10 Unlisted equity investments – non-compliant and loss-making transactions

### 10.1 Summary

10.1.1 Investments in unlisted equity shares above the threshold of LKR 10 million during the period 1998 to 2017, any deviations from the set out policy and loss making transactions are depicted in the table below:

**Table 193: High level summary of information availability for investment in unlisted equity**

Sr. No.	Name of the company	Year	Amount of investment (LKR/ million)	Deviations from policy noted <sup>192</sup> (Y/N)	Loss-making <sup>193</sup> (Y/N)	
1	Sri Lankan Airlines Limited	2010	500	Yes	Yes	
2	Sri Lankan Catering Private Limited - 15% Preference shares	2010	1,000	Yes		
3	Canwill Holdings Private Limited	2013	5,000			
4	West Coast Power Private Limited	2007	2,975	No	No	
5	Cargills Agricultural and Commercial Bank Private Limited	2014	495			
6	Weligama Hotel Properties Limited	2014	405			
7	Jetwing Symphony Limited	2014	390			
8	NDB Housing Bank Limited	2001	30			
9	Commercial Bank 11.25% Preference Shares	2003	75			
10	Commercial Bank 13% Preference Shares	2001	100	Complete set of data not available for investigation – Detailed in Paragraph 10.5.5		
11	Uva Development Bank	1999	12			
12	Wayamba Development Bank	1999	12			
13	Rajarata Development Bank	1998	12			
14	Kandurata Development Bank	1998	12			
15	Ruhunu Development Bank	1998	12			
16	Sabaragamuwa Development Bank	1999	12			
	<b>Total</b>		<b>11,042</b>			

Source: SAP data and KPMG attributes testing sheet

10.1.2 To elucidate the observations from the investigation of unlisted equity investments, the transactions above threshold of LKR 10 million have been segregated as follows:

**Table 194: Issue classification**

<sup>192</sup> Compliance was tested as per attributes list which was prepared based on policy framework existing at the time of investment, review was based on the data and underlying documents available for review

<sup>193</sup> A transaction was considered to be loss making only if the EPF has sold the shares at a loss or have impaired the investment and recorded it in the books of accounts.



Section	Classification of unlisted investments	Name/Number of companies	Paragraph reference
A	Transactions with <u>deviations</u> from applicable policy and process	Sri Lankan Catering Private Limited (SLC)	10.2
		Canwill Holdings Private Limited	10.3
B	Transactions with deviations from applicable policy and process and resulting into losses	Sri Lankan Airlines Limited (SLA)	10.4
C	Investments where <u>no deviations</u> from the applicable policy and processes noted	Four	10.5.1
D	Investments prior to 2007, where complete set of information was not available	Nine	10.5.5

*Source: Information provided by EPF and attribute testing sheet agreed with EPF staff*

## 10.2 Sri Lankan Catering Private Limited (SLC)

10.2.1 SLC is a fully owned subsidiary of SLA involved in the business of airline catering services at the Bandaranaike International Airport in Sri Lanka. EPF received a proposal for investment in the preference shares of SLC to the tune of LKR 2 billion from Merchant Bank of Sri Lanka (MBSL). However, EPF, post multiple deliberations between IC, MO and MB, decided to invest LKR 1 billion in 15 percent preference shares of SLC.

**Table 195: Synopsis of EPF's investment in SLC**

Investment date	Investment (LKR/million)	Dividend (LKR/million)	Capital Gains (LKR/million)
15 June 2010	1,000	1,046.70	-

*Source: SAP data provided by the EPF*

10.2.2 Analysis of the available documentation for EPF's investment in SLC was conducted to identify the broad activities performed by EPF ahead of the investment and the approval process followed for it.

**Table 196: Key dates and activities**

Date of event	Event	Key issue and developments	Officials noted as attendees/making comments	Exhibit no.
27 August 2009	Internal memorandum shared	EPF recommending not to invest	1. Mr. D. Wasantha - Superintendent 2. Dr. D.S. Wijesinghe - Deputy Governor 3. Mr. P. Samarasiri - Assistant Governor 4. Mr. Ajith Nivard Cabraal - Governor	30
25 September 2009	IC minutes	MO suggested that SLC was not a prudent investment for EPF at any rate of interest	1. Dr. D.S. Wijesinghe - Deputy Governor 2. Mr. M.J.S. Abeysinghe - Acting Superintendent 3. Ms. K. Gunatilleke - Additional Superintendent 4. Ms. C.M.D.N.K. Seneviratne - Additional Superintendent	31



Date of event	Event	Key issue and developments	Officials noted as attendees/making comments	Exhibit no.
			5. Mr. L.D.D.Y. Perera – Deputy Superintendent	
2 October 2009	Internal memorandum	MO recommending not to invest	1. Mr. M.J.S. Abeysinghe – Acting Superintendent 2. Mr. P. Samarasiri – Assistant Governor 3. Dr. D.S. Wijesinghe – Deputy Governor	32
16 November 2009	Meeting between Merchant Bank of Sri Lanka, management of SLA and EPF chaired by the Governor	Meeting between the Governor, EPF and IC members with Management of SLA, SLC	1. Mr. Ajith Nivard Cabraal- Governor 2. Mr. P. Samarasiri- Assistant Governor 3. Dr. D.S. Wijesinghe - Deputy Governor 4. Mr. M.J.S. Abeysinghe - Superintendent 5. Ms. K. Gunatilleke – Additional Superintendent 6. Mr. L.D.D.Y. Perera- Deputy Superintendent 7. Ms. C.M.D.N.K. Seneviratne- Additional superintendent	33
23 November 2009 24 November 2009 25 November 2009 16 December 2009	Revised offer from MBSL	Revised offer received from MBSL with additional clauses after discussion with Mr. B.H.I.S Kumara and Mr. L.D.D.Y Perera	Proposal sent by MBSL on discussion with 1. Mr. B.H.I.S. Kumara- Fund Manager 2. Mr. L.D.D.Y. Perera- Deputy Superintendent	34
17 February 2010	IC meeting	MO presentation on evolution of the recommendation since inception	1. Mr. K.G.D.D. Dheerasinghe- Deputy Governor 2. Mr. M.J.S. Abeysinghe- Superintendent 3. Mr. L.D.D.Y. Perera- Deputy Superintendent	33

*Source: Documents provide by EPF for review*

**Non-compliance with applicable guidelines**

10.2.3 No guidelines for investment in unlisted shares prior to implementation of IPS and ITG 2011 were available. Prevailing policy permitted investment in unlisted shares of banks.







However, EPF had invested in shares of SLC, an airline catering company, which was in violation of the IPS 2002.

***Investment recommendations for SLC ('Initial meeting')***

- 10.2.4 Defined process for investment evaluation required MO to evaluate the proposal and recommend its decision to IC. Subsequently, IC had to determine investment worthiness of the proposal and recommends appropriate proposals to MB for investment approvals.
- 10.2.5 The MO and the IC had not recommended to invest in the preference shares of SLC and the internal memo was submitted to the Deputy Governor, Dr. D.S. Wijesinghe and Assistant Governor, Mr P. Samarasiri dated 27 August 2009 and IC minutes dated 25 September 2009.
- 10.2.6 Following were the reasons of the EPF for not recommending investment in SLC (IC meeting dated 25 September 2009 and internal memo dated 2 October 2009):
- Risks involved in the investment were higher than the expected returns.
  - Monopoly of SLC was perceived as a downside due to non-competitive food pricing.
  - Book entries to reduce debtors by LKR 4 billion and issue preference shares of LKR 2 billion without underlying fund movement for such transactions.
  - Impact on SLC after the resolutions:
    - a. Gearing ratio<sup>194</sup> would increase to 84 percent from 17 percent.
    - b. Capital revenue reserve and current assets of SLC would reduce to LKR 2.6 billion from LKR 6.6 billion.
    - c. SLC would not be able to pay dividends on due dates as cash flows from operating activities had been deteriorating over few years.
  - Liquidity problems of SLA (parent company of SLC) and its impact on the cash flows and concerns over future performance of SLC.
  - Reduction in return on equity to 18.1 percent in 2009 from 26.6 percent in 2005.
  - MO highlighted that the 5-year bonds were issued at 11.44 percent after tax yield. Hence investment in preference shares was not attractive considering its ranking below senior debt and subordinated loans.

***Overruling prior investment recommendations of MO and IC ('Final meeting')***

- 10.2.7 Initial recommendations were changed post MO made a presentation to the IC on the evolution of the proposal on 17 February 2010. Following reasons were stated in the document for change in initial recommendation:
- MO presented the findings and recommendations to the IC and the Governor. The IC advised MO to evaluate the prospects of SLA and SLC rather than making a recommendation on current situations. One of the key factors was that with the increase in the future demand of travelers the profitability of the company would improve.

<sup>194</sup> Gearing is a measure of how much of a company's operations are funded using debt versus the funding received from shareholders as equity





- A meeting was held for the future plans of SLC and SLA with the management of both the companies, CBSL Governor, IC members and EPF FMD staff on 16 November 2009. Rationale for Governor's (Mr. Ajith Nivard Cabraal) involvement in meeting with SLC and getting involved in the proposal evaluation and term negotiation was not clear. The laid processes do not define the involvement of the Governor.
- The officers of EPF (Ms. W.A.W.K. Ranaweera was analysing the case) raised their concerns on the rate of return and risk of investment. However, the Governor proposed changes to the instrument and MBSL issued a revised proposal. Following two conditions were added to the proposal by SLC:
  - a. Option to convert preference shares into ordinary shares on the date of expiry of 5 years based on Net asset value per share, as at conversion date.
  - b. Option to continue debenture for another 5 year period and company pays an annual dividend at a rate equal to weighted average 1 year gross treasury bill rate plus 600 basis points.
- EPF negotiated further and got a 2.5 percent discount on the NAV at the time of conversion.
- During the same time, the 5-year Treasury bond rate had declined to 10 percent level. As a result of this, risk return premium was 500 basis points as against 200 basis points in the earlier proposal.

**Final investment decision**

10.2.8 The EPF invested a total of LKR 1,000 million in the preference shares of Sri Lankan Catering with the approval of the Monetary Board.

**Personnel involved in the decision making**

10.2.9 Analysis of available internal approval note indicated that some of the personnel were common between both the meetings. The initial recommendation to not invest in SLC was made based on review performed by Senior Assistant Superintendent, Ms. W.A.V.W. Ranaweera. Subsequently, the revised board paper was submitted by Assistant Superintendent, Mr. B.H.I.S. Kumara and investment was finalised. Refer Exhibit 35 for the details of change in the personnel.

**Table 197: Personnel attending SLC investment meeting**

Name of the person	Designation	Initial meeting	Final meeting
Dr. D.S. Wijesinghe <sup>195</sup>	Deputy Governor	Yes	No
Mr. K.G.D.D. Dheerasinghe	Deputy Governor	No	Yes
Mr. P. Samarasiri	Assistant Governor	Yes	Yes
Mr. M.J.S. Abeyasinghe	Acting Superintendent	Yes	Yes
Ms. K. Gunatilleke	Additional Superintendent	Yes	Yes
Mr. C.M.D.N.K. Seneviratne	Additional Superintendent	Yes	Yes
Mr. L.D.D.Y. Perera	Deputy Superintendent	Yes	Yes

<sup>195</sup> Deceased employee

Name of the person	Designation	Initial meeting	Final meeting
Ms. W.A.V.W. Ranaweera	Senior Assistant Superintendent	Yes	No
Mr. B.H.I.S. Kumara	Assistant Superintendent	No	Yes
<i>Source: Internal documents and relevant IC minutes</i>			

- 10.2.10 Some of the above officials were interviewed<sup>190</sup> by KPMG, of which, Mr. L.D.D.Y. Perera, former Deputy Superintendent, associated in the decision related to SLC, informed that a presentation was made by SLC, which was attended by former Governor, Mr. Ajith Nivard Cabraal. He also explained that apparently, the decision (to invest in SLC) was based on instructions from the government.
- 10.2.11 Detailed list of events leading to the change of recommendations and the people involved in the decision making is set out in Annexure 44.

***Information not furnished in the Monetary Board paper***

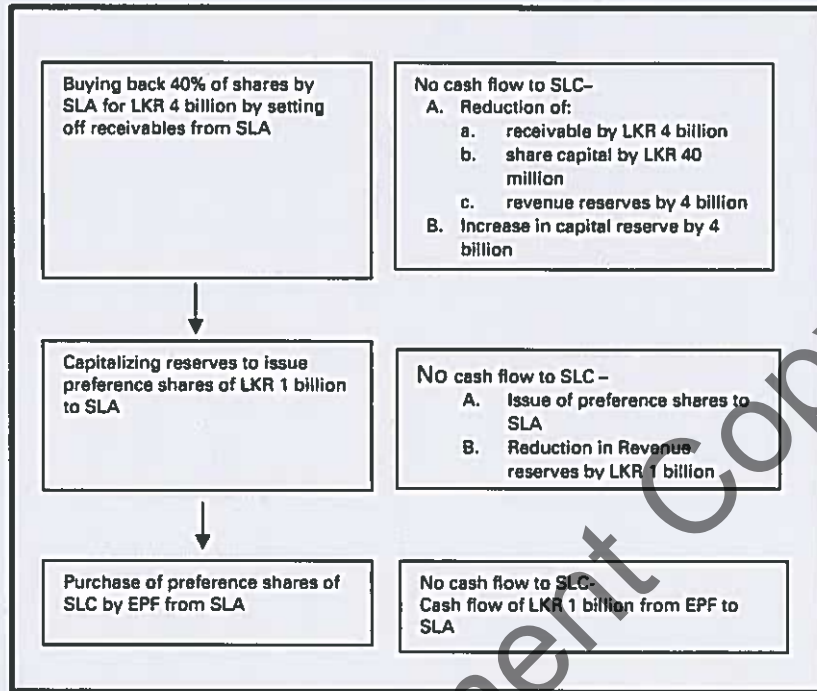
- 10.2.12 One of the factor or concern raised by the MO in IC meeting dated 25 September 2009 was regarding board resolution passed by the board members of SLC. The Board resolution was for issuing preference shares first to SLA by reducing the general reserves and then buying back 40 percent of the existing equity shares from SLA by adjusting the debtor balances receivable from SLA.

Following table represents the flow of transactions in the books of SLC as per the board resolution of SLC dated 1 September 2009

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<sup>190</sup> Individuals were selected for interview/discussion on the basis of their involvement and availability

Chart number 48: Flow of transactions in SLC



10.2.13 This information was included in the internal memorandum placed to Deputy Governor, Dr. D.S. Wijesinghe and Assistant Governor, Mr. P. Samarasiri dated 2 October 2009 and 15 October 2009. However, this information was not furnished in the final board paper submitted by Mr. K.G.D.D. Dheerasinghe, Deputy Governor, Mr. P. Samarasiri, Assistant Governor, and Mr. M.J.S. Abeysinghe, Superintendent of EPF. It was only informed to the MB that the EPF would be purchasing shares of SLC from SLA. Shares of SLC were issued to SLA on 17 May 2010, which was after the date of MB approval on 21 April 2010.

**Interview Evidence**

10.2.14 All employees associated with the investment in SLC were attempted to be interviewed. Set out below is a summary of availability and the key points made by them in relation with the investment in SLC:

**Table 198: Relevant extracts of the Interviews with EPF employees**

Sr. No.	Name of the person	Key points made during interviews
1.	Mr. K.G.D.D. Dheerasinghe	During interview, he mentioned that he was in a provisional oversight role for a short duration and did not have an in-depth understanding of the case
2.	Mr. P. Samarasiri	Not available for interview: Denied the meeting request as he has few ongoing court cases
3.	Mr. M.J.S. Abeysinghe	<ul style="list-style-type: none"> <li>"Middle Office had analysed both the risk and return side of the investment"</li> </ul>



Sr. No.	Name of the person	Key points made during interviews
		<ul style="list-style-type: none"> <li>"I do not recollect the events that transpired during the investment process"</li> </ul>
4.	Ms. K. Gunatilleke	<ul style="list-style-type: none"> <li>"SLC was a profit-making investment, would require further information such as IC minutes to clarify and provide views on the same"</li> </ul>
5.	Mr. C.M.D.N.K. Seneviratne	<ul style="list-style-type: none"> <li>"Her role was significantly around member services and she was hardly posted in the investment role during her tenure. Mrs. Gunathilake and Mr. Yasalal Perera handled the investment section."</li> </ul>
6.	Mr. L.D.D.Y. Perera	<ul style="list-style-type: none"> <li>"There was a presentation made by Sri Lankan Catering in which Governor also participated. It appears that the decision was based on instructions from the government."</li> </ul>
7.	Ms. W.A.V.W. Ranaweera	Not available for interview: Migrated out of Sri Lanka
8.	Mr. B.H.I.S. Kumara	Not available for interview: Meeting request was not accepted by him

### 10.3 Canwill Holdings Private Limited (CHPL)

10.3.1 CHPL was formed in 2011 to revive the business of Ceylinco Leisure Properties Limited (Ceylinco). The Ministry of Finance and Planning through its letter dated 12 March 2012 decided to revive the hotel project of Ceylinco in Colombo (Refer Exhibit 36). The Ministry of Finance and Planning directed Sri Lankan Insurance (SLIC) and other state entities to form new company and invest in the revival of the hotel project of Ceylinco.

10.3.2 Two companies, namely CHPL and Sino Lanka Hotels and Spa Private Limited (100 percent subsidiaries of CHPL) were formed in December 2011 with the directors of SLIC as shareholders in both the companies (Refer Exhibit 37 for the incorporation certificate of CHPL and Sino Lanka). The following were the shareholders of the company at the time of formation (Refer Exhibit 38):

**Table 199: Original shareholders of CHPL and Sino Lanka**

Sr. No.	Name of the shareholder	Company
1	Mr Gamini Senarath	CHPL, SINO
2	Mr Piyadasa Kudabalage	CHPL, SINO
3	Mr Mohan De Alwis	CHPL, SINO
4	Mr Neel Bandara Hapuhinne	SINO

Source: Information available in the documents provided by EPF

10.3.3 EPF invested LKR five billion in CHPL in the year 2013 post multiple deliberations between the MJO, IC and MB.

**Table 200: Synopsis of EPF's investment in CHPL**

Investment date	Investment (LKR/million)	Dividend <sup>197</sup> (LKR/million)	Capital Gains (LKR/million)	Annualized return (%)
20 June 2013	2,500	2.5	-	0.1%

<sup>197</sup> On review of board paper dated 14 August 2017 for review of performance of unlisted investments by EPF.



Investment date	Investment (LKR/million)	Dividend <sup>197</sup> (LKR/million)	Capital Gains (LKR/million)	Annualized return (%)
25 September 2013	2,500	2.5	-	0.1%

Source: SAP data provided by EPF

10.3.4 Analysis of the available documentation for EPF's investment in CHPL was conducted to identify the broad activities performed by EPF ahead of the investment and the approval process followed for it.

Table 201: Key dates and activities

Date of event	Event	Key issue and developments	Officials noted as attendees/making comments	Exhibit no.
12 March 2012	Letter from Ministry of Finance	Letter on formation of a Company for the revival of the property of Ceylinco Leisure Properties	Not applicable	36
4 and 5 April 2012	Letter from Sino Lanka	Letter from Sino Lanka with the expected contribution of EPF in line with the letter from the Ministry of Finance. The personnel whose comments were noted on the documents were:	<ol style="list-style-type: none"> <li>Ms. K. Gunatilleke – Superintendent</li> <li>Mr. L.D.D.Y. Perera- Additional Superintendent</li> <li>Mr. J.D.S.J. Nanayakkara- Senior Assistant Superintendent</li> <li>Mr. S. Pathumanapan- Assistant Superintendent</li> </ol>	39
24 April 2012	IC meeting	MO highlighted concerns on the feasibility of the proposed investment and lack of essential documents to perform a comprehensive analysis. IC instructed to hold discussions with the management of the company. Attendees of the IC meeting are detailed in the table	<ol style="list-style-type: none"> <li>Mr. B.D.W.A. Silva- Deputy Governor</li> <li>Ms. R. Dheerasinghe- Assistant Governor</li> <li>Ms. K. Gunatilleke- Superintendent</li> <li>Ms. C.M.D.N.K. Seneviratne- Additional Superintendent</li> <li>Mr. L.D.D.Y. Perera- Additional Superintendent</li> </ol>	40
9 May 2012	IC meeting	MO informed IC of unresolved issues after meeting with the company representatives. Attendees of the IC meeting are detailed in the table	<ol style="list-style-type: none"> <li>Mr. B.D.W.A. Silva- Deputy Governor</li> <li>Ms. R. Dheerasinghe- Assistant Governor</li> <li>Ms. K. Gunatilleke- Superintendent</li> <li>Ms. C.M.D.N.K. Seneviratne- Additional Superintendent</li> </ol>	41





Date of event	Event	Key issue and developments	Officials noted as attendees/making comments	Exhibit no.
			5. Mr. L.D.D.Y. Perera- Additional Superintendent	
13 July 2012	Meeting with Canwill and SLIC	Governor chaired a meeting with Canwill and SLIC. Attendees of the meeting are detailed in the table	1. Governor, Mr. Ajith Nivard Cabraal 2. Ms. C. Premaratne – Deputy Governor 3. Ms. R. Dheerasinghe- Assistant Governor 4. Ms. K. Gunatilleke- Superintendent 5. Mr. L.D.D.Y. Perera- Additional Superintendent 6. Ms. D.P. Udugamakorala- Assistant Superintendent	42
13 July 2012	Letter to Attorney General by EPF	Legal issues highlighted to Attorney General.	Not applicable	43
12 September 2012	IC meeting	MO recommended not to invest due to high risk return profile. Attendees of the IC meeting are detailed in the table	1. Mr. B.D.W.A. Silva- Deputy Governor 2. Ms. R. Dheerasinghe- Assistant Governor 3. Ms. K. Gunatilleke - Superintendent 4. Ms. C.M.D.N.K. Seneviratne- Additional Superintendent 5. Mr. L.D.D.Y. Perera- Additional Superintendent	44
19 October 2012	Internal note	Internal note from S/EPF to Governor with concerns on the investment. Personnel named in the internal note are detailed in the table	1. Mr. Ajith Nivard Cabraal – Governor 2. Ms. C. Premaratne – deputy Governor 3. Ms. R. Dheerasinghe- Assistant Governor 4. Ms. K. Gunatilleke – Superintendent 5. Mr. L.D.D.Y. Perera- Additional Superintendent	45
16 November 2012	MB meeting	MB instruction to S/EPF to consider investment in CHPL since it is a majority state interest entity.	1. Mr. L.D.D.Y. Perera- Additional Superintendent 2. Mr. P. Samarasiri – Assistant Governor 3. Ms. K Gunatilleke – Superintendent	46



Date of event	Event	Key issue and developments	Officials noted as attendees/making comments	Exhibit no.
21 December 2012	MB meeting	Monetary Board paper for investment in CHPL deferred and EPF instructed to submit a fresh proposal. No rationale was provided for deferring the board paper	<ol style="list-style-type: none"> <li>Ms. K. Gunatilleke – Superintendent</li> <li>Ms. C.M.D.N.K. Seneviratne</li> <li>Mr. L.D.D.Y. Perera- Additional Superintendent</li> <li>Mr. P. Samarasiri – Assistant Governor</li> </ol>	47
3 January 2013	MB meeting	Monetary Board approved the Investment. For the summary of key differences between the first version of board paper created by the EPF department and the final version approved by the MB, refer para 10.3.19.	<ol style="list-style-type: none"> <li>Governor, Mr. Ajith Nivard Cabraal</li> <li>Ms. R. Dheerasinghe- Assistant Governor</li> <li>Ms. K. Gunatilleke – Superintendent</li> <li>Ms. C. Premaratne- Deputy Governor</li> <li>Mr. P. Samarasiri – Assistant Governor</li> </ol>	48

*Source: Documents provided by the EPF department*

The timeline for events during the investment process of CHPL is set out in Annexure 45.

#### **Violation of the applicable guidelines**

- 10.3.5 EPF's investment in CHPL was approximately 42 percent of the issued share capital of CHPL. However, IC approval for the said investment was not available on record. Board paper for approval of the investment did not give any reference to the IC approval. As per IPS 2011, investment in equity more than 10 percent of the share capital of a company requires specific approval of the IC.
- 10.3.6 Ms. C. Premaratne was the Deputy Governor during the time the CHPL investment process was ongoing. She mentioned that *"EPF department was not in favour of submitting the proposal and it was not a very prudent investment considering the risks and returns according to her and the EPF department"*
- 10.3.7 Similar views were expressed by Ms. R. Dheerasinghe (Assistant Governor). She said that *"The IC did not recommend the investment to the board. It appeared that the Monetary Board rejected the paper and since the EPF did not recommend the same. The Board paper had to be resubmitted as per the MB instructions."*
- 10.3.8 Ms. D. Udugamakorala (Assistant Superintendent) also informed that *"The investment in Canwill Holdings was not recommended by the MO or the IC as per my knowledge. Yet the investment took place after the Monetary Board's approval. The analysis of the MO was not in favour of the investment due to certain risk aspects."* *"As per the valuations, return on investments for the hotel projects executed by Canwill Holdings forecasted at the time*

*of initial investments were overstated in my opinion along with many other factors highlighted in the presentation."*

**Letter from Ministry of Finance and Planning**

- 10.3.9 Letter from Ministry of Finance and Planning dated 12 March 2012 for revival of properties of Ceylinco stated that a company was to be formed with SLIC as the shareholder along with "Other private and state shareholders". Communication was received by the Governor of CBSL from the directors of CHPL on 5 April 2012 requesting EPF to invest funds based on the letter from Ministry of Finance and Planning dated 12 March 2012 (Refer Exhibit 36).
- 10.3.10 However, as per the structure and constitution of the EPF with reference to the EPF Act and the EPF Handbook, it was observed that EPF does not fall under the category of "state shareholder" or "state owned entity"<sup>198</sup>. Hence, the directions in the letter from Ministry of Finance and Planning for revival of properties of Ceylinco did not apply to EPF. The basis of investment in CHPL was not justified.

**Investment recommendations for CHPL ('Initial meeting')**

- 10.3.11 MO made two presentations to the IC. Firstly, on 24 April 2012 in which IC recommended holding discussions with the management and perform comprehensive analysis before making investment recommendations and secondly on 9 May 2012 in which the IC was informed of the unresolved issues in the proposal for CHPL. Refer Exhibit 40 and 41 for the IC minutes.
- 10.3.12 The initial recommendation of the MO in IC meeting dated 12 September 2012 did not recommend the investment in CHPL (Refer Exhibit 44). Further, in an internal memo from Ms. K. Gunatilleke (S/EPF) dated 19 October 2012 addressed to Governor, Mr Ajith Nivard Cabraal, following concerns were mentioned for not recommending investment in CHPL (Refer Exhibit 45):
- Financial projections of the subsidiaries of CHPL were not provided for review and hence financial feasibility of CHPL could not be determined.
  - Concerns on the exit strategy, since it was assumed that the IPO price of Sino Lanka would be LKR 21.19 in 2017, if 17 percent of the equity is diluted. This assumption is highly doubtful due to validity of fundamental assumptions, unrealistic discount rates and unrealistic borrowing cost.
  - Future borrowing by CHPL was likely to create high finance cost leading to a considerable impact on financials. Concerns on the unrealistic borrowing cost were raised since the assumption was to finance through 13 percent term loan which was only marginally higher than the Government bond yield rate at 12.43 percent. Alternately, the assumption to borrow at 4 percent through a US dollar loan was also unrealistic given the sovereign bond yield was 5.875 percent.

<sup>198</sup> This issue has been highlighted by the internal investigation team appointed by the Monetary Board in its report dated 30 January 2018. The internal investigation was carried out by Ms. K.V. Kugavathy, Mr. G.T.R. Priyadarshana, Ms. L.D.S.R. Gunasekara and Mr. W.A.N.P. Wickramasinghe.



- The agreement with Hyatt Regency as the management agent was not provided.
- Concerns on the forecast rates used by the company were raised stating that *"the forecast of the company was based on aggressive management, marketing cost and cost control strategies used instead of moderate assumptions on account of competition from key players"*.
- Concerns on the unrealistic discounting rate of 12 percent to calculate Net Present Value (NPV) which was below the risk-free market return of 13.63 percent on government bonds. Considering the risks in the proposal, MO had recommended a risk premium of 7 percent totaling to discount rate of 20.67 percent. This would lead to the NPV of the project to be negative as per the calculations of the MO.
- CHPL would represent 40 percent of the total exposure to the hotel and travel sector which was considered to be high and in violation of the exposure

**Legal issues highlighted by the MO and Attorney General (AG)**

- 10.3.13 MO in its presentation to the IC, informed about the unresolved legal issues for which the IC directed MO to obtain legal opinion from the Attorney General.
- 10.3.14 The letter from Ministry of Finance and Planning dated 12 March 2012 for revival of properties of Ceylinco stated that a company was to be formed with SLIC as the shareholder. However, one of the concerns raised by AG indicated that there was no clarity as to whether CHPL was incorporated to revive Ceylinco since both CHPL and Sino Lanka were incorporated on 22 December 2011 and 21 December 2011 respectively i.e. before the date of the letter from the Ministry (Refer Exhibit 37).
- 10.3.15 The Company to be formed to revive CHPL was to have SLIC as its shareholder. However, CHPL and Sino Lanka both were incorporated with individuals as its shareholders and SLIC made the investment subsequently when this point was raised by the AG office.
- 10.3.16 Another concern raised by the Attorney General mentioned that the referenced property was under dispute as it was included in the repayment schedule for Ceylinco Shriram group of companies as per the Supreme Court order.

**Multiple alterations to the board papers**

- 10.3.17 There were multiple versions of the draft board papers in the documents made available for review with the comments of various authorities wherein a transition was noted in the points stated.
- 10.3.18 Points highlighted by the MO for raising concerns about the investment in the initial board papers were either removed or positively interpreted by reviewing authorities,



which included Assistant Governors and Deputy Governors. Details of the personnel involved have been given in Paragraph 10.3.31 of the report.

10.3.19 Following were the key differences between the first version created by the EPF department and the final version approved by the MB:

**Table 202: Changes and its potential impact**

First version by the EPF	Final version approved by Monetary board	Impact
The section on risk premium included a comment stating that in case of deviation in the discount rate upwards, the NPV of the project would be negative.	<u>This comment was removed.</u>	Knowledge of negative NPV calculation would have impacted the final investment decision
'Exit strategy for EPF' categorized under concerns.	This point was later categorized under 'Proposal details' in the final version.	Concerns raised by the MO on the fundamental assumptions used by the company for calculation of the future IPO price was not addressed.
'EPF exposure to leisure and tourism sector' categorized under concerns. It was stated that investment in CHPL would represent 40 percent of the total exposure to the hotel and travel sector, which was considered to be high.	This point was categorized under <u>favorable factors</u> . The corresponding point was modified to state that the investment in CHPL would only represent 0.45 percent of the total portfolio of EPF.	High exposure of the investment i.e. 40 percent exposure, in the hotel and travel sector was not reported
No point on 'Need for diversification of EPF portfolio' in the original version.	This point was added under favorable factors stating the need for the fund to 'diversify into some slightly riskier new investments/avenues but with higher long-term return to the beneficiaries'.	The investment would represent 40 percent of the exposure in the hotel and tourism sector. This would yield to concentration of investment in the said sector.
'EPF investments in unlisted equities' categorized under concerns.	This point was categorized under favorable factors. An additional point was noted stating that investment in CHPL would account for 0.85 percent of the total portfolio of EPF.	The investment in CHPL would increase the total unlisted exposure by LKR 5 billion.

*Source: Documents provided for review and refer Exhibit 49 for details of the above changes.*

10.3.20 Ms. C. Premaratne, the Deputy Governor at the time of CHPL investment, stated that "In January 2012, the final board paper was submitted, and I had signed the board paper. However, changes were made to the board paper by S/EPF Ms. K. Gunatilleke compared

*to the previous board paper and the changes were not highlighted to me. S/EPF, Ms. K. Gunatilleke was responsible for the preparation of the board paper”.*

- 10.3.21 Ms. K. Gunatilleke (S/EPF) was questioned by KPMG regarding her views on the changes made in the Board paper for investment in CHPL. She explained that *“Monetary Board had asked to re-evaluate the proposal and re-evaluation in depth was done with the help of the Deputy superintendent and the Middle Office officers and resubmit to the Board. The Monetary Board is the final authority and it decided to invest in CHPL. The Board highlighted the need for diversification of EPF investments.”*

***Overruling prior investment recommendations of MO ('Final meeting')***

- 10.3.22 The MB at its meeting dated 16 November 2012 instructed Ms. K. Gunatilleke (S/EPF) *“to consider an investment of appropriate magnitude to be channeled through a suitable mechanism to Canwill Holding (Pvt) Ltd”* (Refer Exhibit 46). Subsequently, the final board paper was submitted to the MB on 3 January 2013 for approving the investment in CHPL. Following were the reasons of the EPF for recommending investment in SLC:

- Reputed brand name of Hyatt Regency as the managing partner of the project. However, concern raised by the MO on the unavailability of the management agreement of Hyatt was not addressed.
- Thriving tourism industry and government target to achieve 2.5 million tourists in 2016.
- Need for diversification of EPF portfolio into slightly riskier new instruments/avenues with higher long-term return.
- Government owned institutions as the other main shareholders of CHPL indicating that *“government blessings is with the proposed project”*<sup>199</sup> which would be a comfort factor to EPF.
- Clauses to safeguard the best interest of the EPF were included in the shareholder agreement.

- 10.3.23 Ms. K. Gunatilleke (S/EPF), during the interview stated that *“Monetary Board had instructed to invest in Canwill Holdings. I was mainly involved in the payment process in the investment. Investment Committee had not recommended the investment and highlighted the pros and cons of the particular investment.”*

- 10.3.24 Ms. C. Premaratne stated that *“the instructions came as a board decision in November 2012. Monetary Board looked at a broad view and instructed EPF to diversify their*

<sup>199</sup> Extracts from the MB paper dated 3 January 2013





*portfolio and as the tourism sector is booming, Monetary Board considered this kind of investment as appropriate”.*

**Issues in shareholders’ agreement and violations of shareholder agreement**

10.3.25 Below are the extracts of the points that were contested by the EPF department in the draft shareholders agreements and final decision as per Governor, Ajith Nivard Cabraal instructions (Refer Exhibit 50):

**Table 203: Initial and final decision**

Point in shareholder agreement	Concern raised by EPF	Final decision as per Governor’s instructions noted in internal document
Definition and interpretation of ‘Connected concern’	EPF as a major shareholder needs to know the financial transactions with connected concerns before such transactions take place.	<i>“G instructed that this clause is not required as such matters can be discussed at the meeting of Board of Directors. Hence the nominee director representing EPF can submit concerns of EPF, if any, at the Board meeting.”</i>
Increase quorum from 50 to 70 percent for a shareholder meeting	Other shareholders (SLIC and Litro Gas Lanka) can hold meeting without the consent of EPF.	<i>“G said that quorum of 50 percent is adequate for a shareholder meeting as shareholders represent the government related institutions.”</i>
Any variation in the terms and conditions of management agreement subject to consent of SLIC, EPF and LTL	According to CHPL, this clause should not be included since changes cannot be disclosed to ‘third parties’.  However, EPF’s concern was that since it is a major shareholder, it should be aware of all changes made.	<i>“As Directors are appointed to look after the interests of EPF, shareholders need not handle day to day business and administrative matters.”</i>
Inclusion of a dividend policy	Dividend policy has been included in the shareholder agreement of other investee companies.	<i>“There is no necessity of including dividend policy in the shareholder agreement and the Board of Directors can decide the dividend annually depending on profitability of the company.”</i>
Number of nominee director	EPF suggested that number of directors to be proportionate to the amount invested by each shareholder (in this case SLIC had two nominee directors whereas EPF had 1)	<i>“G said that quorum of 50 percent is adequate for a shareholder meeting as shareholders represent government related institutions.”</i>
Miscellaneous	Suggestion by EPF for submission of management accounts of the holding companies, subsidiaries and associates to the shareholders periodically and as requested.	<i>“Shareholders need not handle day to day business and administrative matters.”</i>

10.3.26 The above changes, as suggested by the Governor, Mr. Ajith Nivard Cabraal were incorporated for entering into the final agreement with CHPL. The shareholder agreement stated that CHPL was to be listed on the Colombo Stock Exchange in 2015 to provide an



exit strategy for EPF. However, as per the board paper dated 14 August 2017 for review of unlisted equity, CHPL was not listed till March 2017.

**Governor's role during the investment process**

- 10.3.27 The Governor, Mr. Ajith Nivard Cabraal chaired a meeting held with the representatives of CHPL on 13 July 2012 to discuss the pending issue related to legal and operational issues (Refer Exhibit 42).
- 10.3.28 Further, in relation to legal issues, an email extract was available in the documents provided for review, which was sent by Ms Rupa Dheerasinghe (Assistant Governor in charge of EPF) to Deputy Governors, which mentioned that the Governor stated that "Attorney General's comments should not be necessary for the MB to take investment decisions". Refer Exhibit 51 for extracts of the email communication.
- 10.3.29 From the internal document prepared by the EPF department covering issues related to shareholders' agreement with CHPL, final comments by the Governor were noted. The details of the same are highlighted in Paragraph 10.3.25.
- Ms. C. Premaratne, Deputy Governor stated that "IC was not in favour of proposal. However, the Governor asked her to go through it"

**Final investment decision**

- 10.3.30 Investment of LKR 5,000 million in CHPL was made based on MB approval dated 3 January 2013. The investment committee approval was not taken for the investment in CHPL.

**Personnel involved in the decision making**

- 10.3.31 Analysis of available internal approval noted indicated the personnel in case of the initial IC meeting and the personnel involved in making changes to the board paper to be submitted to the MB.

**Table 204: Personnel identified from documents provided for review**

Name of the person	Designation	Person involved in IC meeting (during which investment was not recommended)	Involved in making changes to board papers or shareholder agreement
Mr. Ajith Nivard Cabraal	Governor – CBSL	No	Yes
Ms. C. Premaratne	Deputy Governor	No	Yes
Mr. B.D.W.A. Silva	Deputy Governor	Yes	No
Ms. R. Dheerasinghe	Assistant Governor	Yes	Yes
Ms. K. Gunatilleke	Acting. S/EPF	Yes	Yes
Mr. L.D.D.Y. Perera	Additional Superintendent	Yes	No
Ms. D.P. Udugamkorala	Assistant Superintendent	Yes	No
Mr. S. Pathumanapan	Assistant Superintendent	Yes	No

Source: Internal documents and relevant IC minutes

**Interview Evidence**

10.3.32 Employees associated with the investment in CHPL or having knowledge of the investment were attempted to be interviewed. Set out below is a summary of availability and the key points made by them in relation with the investment in CHPL:

**Table 205: Relevant extracts of the Interviews with EPF employees**

Sr. No.	Name of the person	Key points made during interviews
1.	Mr. Ajith Nivard Cabraal	Not available for interview. Responses to the questionnaire sent to Mr. Ajith Nivard Cabraal were not received till the date of the report
2.	Ms. C. Premaratne	<ul style="list-style-type: none"> <li>• "IC was not in favour of proposal. However, the Governor asked me to go through it"</li> <li>• "EPF department was not in favour of submitting the proposal and it was not a very prudent investment considering the risks and returns"</li> <li>• "Instructions came as a board decision in November 2012. Monetary Board looked at a broad view and instructed EPF to diversify their portfolio and as the tourism sector was booming, Monetary Board considered this kind of investment as appropriate"</li> <li>• "In January 2012, the final board paper was submitted, and I had signed the board paper. However, changes were made to the board paper prepared by S/EPF Ms. K. Gunathilake compared to the previous board paper and the changes were not highlighted to me"</li> <li>• "The director (S/EPF) was responsible for the preparation of the board paper"</li> </ul>
3.	Mr. B.D.W.A. Silva	<ul style="list-style-type: none"> <li>• "Mostly requests were received by the government to invest in the unlisted equities. EPF considered the merits and demerits of such requests and decided to invest in such ventures. Investment in Canwill Holdings was as per instructions of the Monetary Board"</li> </ul>
4.	Ms. R. Dheerasinghe	<ul style="list-style-type: none"> <li>• "The IC did not recommend the investment to the board. It appeared that the Monetary Board rejected the paper and since the EPF has not recommended the same. The Board paper had to be resubmitted as per the MB instructions."</li> </ul>
5.	Ms. K. Gunathilleke	<ul style="list-style-type: none"> <li>• "Monetary Board had instructed to invest in Canwill Holdings. I was mainly involved in the payment process in the investment. Investment Committee had not recommended the investment and highlighted the pros and cons of the particular investment"</li> <li>• "Monetary Board had asked to re-evaluate the proposal and re-evaluation in depth was done with the help of the Deputy superintendent and the Middle Office officers and resubmit to the Board. The Monetary Board is the final authority and it decided to invest in Canwill Holdings. The Board highlighted the need for diversification of EPF investments"</li> </ul>
6.	Mr. L.D.D.Y. Perera	<ul style="list-style-type: none"> <li>• "I did not make any changes. I had submitted the initial board paper to the board and there were concerns identified in the investment. However, I am not aware of the changes made post the initial version. The investment decision was based on government instructions."</li> </ul>



Sr. No.	Name of the person	Key points made during interviews
7.	Ms. D.P. Udugamkorala	<ul style="list-style-type: none"> <li>• "The investment in Canwill Holdings was not recommended by the MO or the IC as per my knowledge. Yet the investment took place after the Monetary Board's approval. The analysis of the MO was not in favour of the investment due to certain risk aspects."</li> <li>• "As per the valuations, return on investments for the hotel projects executed by Canwill Holdings forecasted at the time of initial investments were overstated in my opinion along with many other factors highlighted in the presentation."</li> </ul>
9.	Dr. P.N.Weerasinghe	<ul style="list-style-type: none"> <li>• "MB had a strong view to invest in Canwill Holdings and this could be found in an MB paper where instruction was given to the Superintendent to invest in Canwill Holdings"</li> </ul>
10.	Ms. C M D N K Seneviratne	<ul style="list-style-type: none"> <li>• "The reason stated by IC not to recommend was due to multiple documents not being available to IC"</li> <li>• "After evaluation of the documents submitted to the board, I believed MB had provided clear approval to invest in Canwill Holdings"</li> </ul>

Source: Minutes of discussion with EPF employees

#### 10.4 Sri Lankan Airlines (SLA)

- 10.4.1 Sri Lankan Airlines (SLA) is the national carrier of Sri Lanka and the largest airline in the country. It commenced operations in the year 1998 with partial investment by Emirates Airlines. In 2008, the Government of Sri Lanka decided to acquire all the shares of SLA from Emirates
- 10.4.2 EPF had received a letter dated 6 July 2010 from Bank of Ceylon (BOC) stating that "The Cabinet of Ministers has granted approval for the Treasury to authorize Bank of Ceylon to purchase the stake in Sri Lankan Airlines on behalf of the Government of Sri Lanka from Emirates Airlines. Accordingly, these shares are to be purchased jointly by Bank of Ceylon, People's Bank, National Savings Bank, Sri Lanka Insurance, EPF and Airport & Aviation Services Authority"
- 10.4.3 The letter sent by the Ministry of Finance and Planning to BOC in relation to SLA was attached with the letter sent by BOC to EPF. Refer Exhibit 52 for copies of letters written by Ministry of Finance and Planning to BOC and letter sent by BOC to EPF. It was noted that EPF thereafter invested a sum of LKR 500 million for 3.62 percent stake in SLA.

Table 206: Synopsis of EPF's investment in SLA.

Investment date	Investment (LKR/ million)	Dividend (LKR/million)	Capital Gains (LKR /million)	Impairment loss (LKR million)
31 August 2010	500	-	-	(500)

Source: SAP data provided by EPF

- 10.4.4 Analysis of the available documentation for EPF's investment in SLA was conducted to identify the broad activities performed by EPF ahead of the investment and the approval process followed for it.





**Table 207: Key events and chronology**

Date of event	Event	Key issue and developments	Officials noted as attendees/making comments	Exhibit no.
2 July 2010	IC approval to invest in SLA based on proposal made by BOC. (The proposal letter was written by BOC on 6 July 2010)	IC approved investment ahead of the proposal date.	<ol style="list-style-type: none"> <li>1. Mr. P.D.J. Fernando- Deputy Governor</li> <li>2. Mr. B.D.W.A. Silva- Assistant Governor</li> <li>3. Ms. R. Dheerasinghe- Superintendent</li> <li>4. Ms. K. Gunatilleke- Additional Superintendent</li> <li>5. Ms. C.M.D.N.K. Seneviratne- Additional Superintendent</li> <li>6. Mr. L.D.D.Y. Perera- Deputy Superintendent</li> </ol>	53
6 July 2010	<ul style="list-style-type: none"> <li>- Letter from BOC regarding approval from the Cabinet to authorize BOC to purchase stake in SLA on behalf of the Government</li> <li>- A Letter from Ministry of Finance and Planning to Bank of Ceylon dated 7 June 2010 was attached with the proposal that did not have any reference about EPF investing funds in SLA</li> </ul>	Proposal received after IC approval and Ministry letter did not instruct EPF to invest	<ol style="list-style-type: none"> <li>1. Ms. R. Dheerasinghe- Superintendent</li> <li>2. Mr. L.D.D.Y. Perera- Deputy Superintendent</li> <li>3. Ms. G.H.P.P. Shyamalie- Assistant Superintendent</li> </ol>	52
12 July 2010	Internal note prepared for getting the approvals for release of payment	Approval for release of funds	<ol style="list-style-type: none"> <li>1. Mr. B.D.W.A. Silva- Assistant Governor</li> <li>2. Ms. R. Dheerasinghe- Superintendent</li> <li>3. Mr. L.D.D.Y. Perera- Deputy Superintendent</li> <li>4. Ms. G.H.P.P. Shyamalie- Assistant Superintendent</li> </ol>	Exhibit 54
13 July 2010	Payment for the investment was made as per the authorization	Payment made	<ol style="list-style-type: none"> <li>1. Mr. L.D.D.Y. Perera- Deputy Superintendent</li> <li>2. Ms. G.H.P.P. Shyamalie- Assistant Superintendent</li> </ol>	Exhibit 55

Date of event	Event	Key issue and developments	Officials noted as attendees/making comments	Exhibit no.
5 August 2010	MB ratification for investment in SLA	Ratification of the Investment		Exhibit 56
<i>Source: Documents provided by the EPF for Sri Lankan Airlines</i>				

**Non-compliance with applicable guidelines**

- 10.4.5 EPF had invested in the shares of SLA, in violation of the IPS 2002. At the time of the investment prevailing ITG did not permit investment in unlisted shares (except for banking companies).

**Evidence of analysis done by MO not available on record**

- 10.4.6 MO's role is to conduct a thorough analysis of prospective investment and present it to the IC. However, in case of SLA, no evidence of analysis conducted by MO was available. The IC minutes dated 2 July 2010 stated that "Middle office informed the proposal made by the Bank of Ceylon with respect to the "Investment in the Ordinary Shares of Sri Lankan Airlines Limited to IC". However, no evidence of analysis or recommendation of the MO was documented in the IC approval.
- 10.4.7 Financial statements of SLA for the year ending 31 March 2010 were also not available in the documents made available for investigation. On an analysis of SLA's annual report for 2015-16, it was noted that SLA was making losses in the year 2009, the year immediately prior to the investment.

**Table 208: SLA's key parameters**

Particulars	Amounts in LKR/billion									
	2016-17	2015-16	2014-15	2013-14	2012-13	2011-12	2010-11	2009-10	2008-09	2007-08
Net profit	(28.93)	(12.62)	(16.49)	(32.41)	(21.75)	(19.78)	(0.38)	(2.70)	(9.30)	4.43
Accumulated losses	(169.75)	(141.08)	(128.24)	(110.74)	(44.61)	(22.79)	(3.10)	(2.71)	(0.02)	9.28
<i>Source: Financial statements of SLA</i>										

**Investment prior to MB approval and subsequently ratified**

- 10.4.8 As per IPS 2002<sup>200</sup>, all investments in unlisted equity should be "approved" by MB. The investment decision for SLA was however "ratified" by the MB subsequent to the payout of funds to Bank of Ceylon. Ratification was sought from the MB on 5 August 2010, which was after the date of investment.
- 10.4.9 The rationale for investment in SLA as mentioned in the board paper dated 5 August 2010 was that "SLA is the National airline of the country. Thus, it has the government backing to continue operations even in difficult periods. Operating condition of SLA will improve

<sup>200</sup> IPS 2001/2002 or ITG 2007 does not cover provision for ratification of unlisted investments.



as a result of upturn in the tourist arrivals and economic activities in the country with the end of war against terrorism”.

- 10.4.10 From the documents made available for investigation, no evidence was available to suggest that objective parameters such as future discounted cash flows and future growth prospects were considered. In view of the above, it appears that no objective evaluation was performed before investing EPF funds in SLA. Hence, *prima facie*, the investment cannot be reasonably termed as a prudent investment.

**Shareholder agreement not available on record**

- 10.4.11 As per the ITG 2011, once an investment is committed to be made in an unlisted company, EPF is required to enter into a shareholders’ agreement with the company, to safeguard EPF’s interest. It was the responsibility of the Superintendent of EPF to sign the shareholder agreement on behalf of the EPF and the MB.
- 10.4.12 However, on investigation of the available documents provided by the EPF in hard copy and index for the scanned documents provided, shareholders’ agreement was not available on record.

**Losses incurred on the investment**

- 10.4.13 On 31 December 2015, in accordance with the Sri Lanka Financial Reporting Standards (SLFRS) the entire investment of LKR 500 million in Sri Lankan Airlines was impaired by the EPF department leaving a residual value of LKR 100 in the books of accounts.
- 10.4.14 As per the Monetary Board paper number MB/EPF/9/11/2016 dated 18 March 2016, the reason for impairment was mentioned as “*accumulated losses of Sri Lankan Airlines*”. The company had a negative capital owing to accumulated losses of LKR 128.24 billion in its books of accounts as on 31 March 2015.
- 10.4.15 Due to the uncertainties on feasibility of divestment and magnitude of accumulated losses, EPF impaired the investment on 31 December 2015.

**People involved in investment decision making**

- 10.4.16 Authorisation to remit funds without MB approval

The below list of people authorised the payment/ transfer of funds to BOC for investment in SLA:

**Table 209: Personnel identified from the documents available for review**

Name of the employee	Designation	Role of the employee
Mr. P.D.J. Fernando	Deputy Governor	Deputy Governor at the time of Investment
Mr. B.D.W.A. Silva	Assistant Governor	Signed the payment requisition
Ms. R. Dheerasignhe	Superintendent	Signed the payment requisition
Ms. K. Gunatilleke	Assistant Superintendent	Signed the payment requisition
Mr. L.D.D.Y. Perera	Deputy Superintendent	Signed the payment requisition
Ms. G.H.P.P. Shyamalie	Fund Manager	Initiated the payment requisition

Source: Internal hand written note prepared by the EPF



- 10.4.17 The above names were identified from IC minutes, draft board papers and handwritten internal note with signatures of the person, designations and the date of approval.

#### Interview Evidence

- 10.4.18 Five individuals associated with the investment in SLA were attempted to be interviewed. Following is a summary of the key points made by them in relation with the investment in SLA:

**Table 210: Relevant extracts of the Interviews with EPF employees**

Sr. No.	Name of the person	Key points made during interviews
1.	Mr. P.D.J. Fernando	<ul style="list-style-type: none"> <li>"EPF was not very amenable to investments in the unlisted companies. The investment in unlisted companies were only taken up if it was a compelling national interest and permission from the Monetary Board"</li> <li>"Instructions to invest in Sri Lankan Airlines came from the top level in view of the decision taken at the top most level to terminate the contract with Emirates Airlines. It was considered as of national importance in view of aviation and tourism hub concepts and hence EPF invested in Sri Lankan Airlines as per national interests"</li> </ul>
2.	Mr. B.D.W.A. Silva	<ul style="list-style-type: none"> <li>"Mostly requests were received by the government to invest in the unlisted equities. EPF considered the merits and demerits of such requests and decided to invest in such ventures. Investment in Canwill Holdings was as per instructions of the Monetary Board"</li> </ul>
3.	Ms. R. Dheerasignhe	<ul style="list-style-type: none"> <li>"In my opinion, the investment was in national interest. I do not recollect whether she was instructed by the Governor or the Deputy Governor"</li> </ul>
4.	Ms. K. Gunatilleke	<ul style="list-style-type: none"> <li>"It could be of 'National interest' as SLA was the national carrier"</li> </ul>
5.	Mr. L.D.D.Y. Perera	<ul style="list-style-type: none"> <li>"Government could be involved in the decision in Sri Lankan Airlines. There was an urgency in the investment and there was a note he placed on record regarding approval to Deputy Governor and only post approval the funds were transferred."<sup>201</sup></li> </ul>
6.	Ms. G.H.P.P. Shyamalie	<ul style="list-style-type: none"> <li>Not available for interview: Migrated out of Srilanka</li> </ul>

Source: Minutes of discussion with EPF employees

## 10.5 Policy compliance for other unlisted investments

- 10.5.1 Apart from the above three investments, KPMG noted that the following investments were broadly made in compliance with the applicable policy and processes:

**Table 211: Summary of information availability**

Sr.No.	Name of the company	Year	MO	IC	MB	Return (LKR/ million)
1	West Coast Power Private Limited	2007	✓	✓	✓	5,341.48

<sup>201</sup> No such note, as mentioned by Mr. L.D.D.Y. Perera could be found in the documents provided

Sr.No.	Name of the company	Year	MO	IC	MB	Return (LKR/ million)
2	Cargill's Agricultural and Commercial Bank Private Limited	2014	✓	✓	✓	-
3	Weligama Hotel Properties Limited	2014	✓	✓	✓	-
4	Jetwing Symphony Limited	2014	✓	✓	✓	-

Legend: X - Not available in file ✓ - Available  
Source: KPMG analysis, documents provided by EPF, Board papers for review of investments

10.5.2 As per the laid down policy and process in the IPS and ITG, approval of the IC and the MB were obtained for investment of EPF funds in the above unlisted equity shares. The dates for the approvals obtained from the IC and the MB are set out in Annexure 46.

10.5.3 No returns on investments

Out of the above four investments, only investment in West Coast Power Private Limited had provided a positive return to the EPF. The following investments did not provide any return to the EPF from the date of investment to 31 December 2017:

**Table 212: Return summary**

Sr. No.	Name of the company	Year	Return as on 31 December 2017
1	Cargill's Agricultural and Commercial Bank Private Limited	2014	Nil
2	Weligama Hotel Properties Limited	2014	Nil
3	Jetwing Symphony Limited	2014	Nil

Source: KPMG analysis, documents provided by EPF, Board papers for review of investments

10.5.4 KPMG did however note some points in respect of investments in Cargill's Agricultural and Commercial Bank Private Limited and Weligama Hotel Properties Limited, where no returns were received by the EPF:

**Table 213: Key issues**

Name of the share	Issues noted
Cargill's Agricultural and Commercial Bank Private Limited	<ol style="list-style-type: none"> <li>The shareholder agreement with the Company stated a clause for right to appointment of director for shareholders with a stake of 10 percent or more. At the time of purchase, EPF was holding 10 percent of the stake but director was not appointed.</li> <li>However, a rights issue was made in the year 2015 lowering the stake of EPF to 4.98 percent and EPF lost the right to appoint a director to the Board.</li> </ol>
Weligama Hotel Properties (Pvt) Limited <sup>202</sup>	<ol style="list-style-type: none"> <li>The shareholder agreement did not include a clause for appointment of Director. This clause was noted in most agreements entered by the EPF.</li> <li>Board resolutions for 3 years were passed without providing notice of shareholder meeting to EPF. This incident came to light when bought out by the company for compliance purposes.</li> </ol>

Source: Monetary Board papers and internal documents available in the files.

<sup>202</sup> Document to evidence the source of proposal not available for review



**Unlisted investments with incomplete data set**

10.5.5 On investigation of the investments in unlisted shares, it was noted that complete data set was not available for investment in the following unlisted companies:

**Table 214: Information availability**

Sr No	Name of the company	Year	MO	IC	MB
1	NDB Housing Bank Limited	2001	✓	✗	✓
2	Commercial Bank 11.25% Preference Shares	2003	✓	✗	✓
3	Commercial Bank 13% Preference Shares	2001	✗	✗	✓
4	Uva Development Bank	1999	✗	✗	✓
5	Wayamba Development Bank	1999	✗	✗	✓
6	Rajarata Development Bank	1998	✗	✗	✓
7	Kandurata Development Bank	1998	✗	✗	✗
8	Ruhunu Development Bank	1998	✗	✗	✗
9	Sabaragamuwa Development Bank	1999	✗	✗	✗

Legend: ✗ - Not available in file ✓ - Available  
Source: KPMG analysis, documents provided by EPF and Monetary Board papers for review of investments

10.5.6 Review of the investment process in the above-mentioned list of companies was based only on the limited information made available in hard copy and the scan documents provided by the EPF department. The following was noted:

**Table 215: Information availability**

Name of the share	Information not available	Issues and deviations
NDB Housing Bank Limited	1. Approval of the Investment committee	• Nil
Commercial Bank 11.25% Preference Shares		• Investment done prior to Monetary Board approval • Investment was done based on the instructions and approval of the Governor
Commercial Bank 13% Preference Shares	1. Approval of the Investment committee	• Nil
Uva Development Bank	2. Analysis and recommendation done by the Middle office	• Investment done prior to Monetary Board approval
Wayamba Development Bank		• Investment done prior to Monetary Board approval
Rajarata Development Bank		• Investment done prior to Monetary Board approval
Kandurata Development Bank	1. Approval of the Investment committee	• Nil
Ruhunu Development Bank	2. Analysis and recommendation done by the Middle office	• Nil
Sabaragamuwa Development Bank		• Nil
	3. Monetary Board approvals	

Source: Monetary Board papers and internal documents available in the files.



**Investment in preference shares of unlisted company**

- 10.5.7 As per IPS 2002, investment was restricted to preferred stock of 'publicly traded securities and blue-chip companies'. However, EPF had invested in shares of an unlisted banking company. This was in violation of the IPS 2002 since an unlisted company did not have 'publicly traded securities'.
- 10.5.8 EPF had invested in the preference shares of Commercial Bank PLC having preference dividend of 11.25 percent and 13 percent preference shares in the year 2006.

**Irregularity in the sale of investment**

- 10.5.9 IPS 2001, 2002 and 2011 and ITG 2007 and 2011 did not include any process/guidelines for sale of investment. Thus, process lapses in the sale could not be identified.
- 10.5.10 EPF had invested in shares of six regional development banks in the year 1998 and 1999. The said shares were transferred to GOSL in 2007 based on the net asset value of shares as on 31 December 2005. The said transfer of shares was approved by the Monetary Board on 22 February 2007.

**Table 216: Profit on transfer of shares to GOSL**

Name of the company	Invested amount (LKR/million)	Amount at which transferred (LKR/million)	Capital gain on transfer (LKR/million)
Uva Development Bank	12.00	22.71	10.71
Wayamba Development Bank	12.00	44.58	32.58
Rajarata Development Bank	12.00	24.70	12.70
Kandurata Development Bank	12.00	18.01	6.01
Ruhunu Development Bank	12.00	42.04	30.04
Sabaragamuwa Development Bank	12.00	22.16	10.16
<b>Totals</b>	<b>72.00</b>	<b>174.21</b>	<b>102.21</b>

Source: SAP data provided by the EPF department

- 10.5.11 Monetary Board minutes dated 22 Feb 2007, stated that the consideration to be paid to EPF by GOSL was to be deducted from the profits of CBSL. However, no documentary evidence was available to provide rationale for such decision.



## 11 Investment or divestment decisions by MB or Governor

### 11.1 Investment decisions by MB or Governor in listed equity

#### *Chronology of events*

11.1.1 Majority of the investment/divestment done by EPF were during the period 2009 to 2011. During this time period Mr. Ajith Nivard Cabraal was the Governor of CBSL and Chairperson of MB. We have sent a written questionnaire to Mr. Ajithi Nivard Cabraal (through CBSL) on 3 October 2019 and have requested for a face to face meeting. The communication, in this context, between Governor Dr. Indrajit Coomaraswamy and Mr. Ajith Nivard Cabraal are set out below.

**Table 217: Letter references**

Letter date	From	To	Highlights	Exhibit reference
3 October 2019	Dr. Indrajit Coomaraswamy	Mr. Ajith Nivard Cabraal	Governor requesting Mr Cabraal to meet with the Forensic Auditors	5.1
8 October 2019	Mr. Ajith Nivard Cabraal	Dr. Indrajit Coomaraswamy	Mr. Cabraal requesting for certain documents to refer the points raised in the earlier letter	5.2
9 October 2019	Dr. Indrajit Coomaraswamy	Mr. Ajith Nivard Cabraal	Governor informs Mr. Cabraal that Monetary Board has been informed about his requirements	5.3
14 October 2019	Dr. Indrajit Coomaraswamy	Mr. Ajith Nivard Cabraal	Governor informs Mr. Cabraal that the Forensic Auditors have requested a Video Conference	5.4
16 October 2019	Mr. Ajith Nivard Cabraal	Dr. Indrajit Coomaraswamy	Mr. Cabraal informs the Governor that he is busy with Presidential election campaign and will respond once he is back in town	5.5
17 October 2019	Mr. S.R. Attygalle, Deputy Governor	Mr. Ajith Nivard Cabraal	Providing documents requested by Mr. Cabraal	5.6

11.1.2 We have set out in the subsequent sections some of the key decisions that have been taken by MB/Former Governor in relation to the investment/divestment by EPF. Based on the documentary evidence and statements given by current and past employees of CBSL, in our assessment, it is important to get Mr. Ajith Nivard Cabraal's views on these



matters. Currently, we do not have benefit of his response. CBSL should obtain his response to formulate a holistic view on these transactions.

***Investment decisions by MB or Governor in listed equity:***

- 11.1.3 In line with laid down policy and process in IPS 2001,2002, 2011 and ITG 2007, 2011, the MB had delegated its powers to the Investment committee to manage day to day investment decision of EPF funds. The following were the routine functions of the Monetary Board:
- The MB approval was required to add any company in the Approved Share List. If in case the approval of the MB is not obtained, special approval/consultation of the Governor was required to be obtained.
  - The Monetary board ratifies the investment made by the EPF at the end of each month and proposes/ allocates funds for the coming month.

- 11.1.4 On review of specific investments in listed shares, that resulted into losses to the EPF, the involvement of the MB or the Governor was noted in the decision-making process was noted. The involvement was either identified from the interviews with the EPF employees, Monetary Board papers or the internal approval notes signed by the Governor. The scrip wise details of involvement of the Governor or MB identified during the investigation have been detailed below:

***Ceylon Grain Elevators PLC investment in March 2011***

- 11.1.5 The following relevant extracts of the interviews with the employees of the EPF for Ceylon Grain Elevators PLC are detailed below:
- 11.1.5.1 Mr. B.D.W.A. Silva explained that "S/EPF had met the governor and where he has advised to examine the prospects of the company and he asked to look at the broader perspective. But the overall market did not perform well and also the company did not perform as expected"
- 11.1.5.2 Mr. P.D.J. Fernando mentioned that he "had minuted<sup>203</sup> to S/EPF and the head of the investment advisors that there should not be any interactions with the Governor regarding investments to be undertaken of which the IC would not have been aware of."
- 11.1.5.3 Mr. W.G.R. Harshapriya during the interview mentioned that "after the first transaction in Ceylon Grain Elevators, Mr. Perera had asked for approval to Governor for the transaction and had documented which according to him could have gone missing". " Mr. Perera had minuted<sup>204</sup> the directions describing "as per instructions of the top management" the investment was made and sent for approval by Governor" He further mentioned that "the Governor/Deputy Governor/Assistant Governor would have instructed the S/EPF and S/EPF would have asked Mr. Husam to execute the transaction". ....." after the first transaction in

<sup>203</sup> Copy of the minutes to the S/EPF as mentioned by Mr. P.D.J. Fernando were not available in the documents provided for review

<sup>204</sup> According to his memory



Ceylon Grain Elevators, Mr. Perera had asked for approval to Governor for the transaction and had documented which according to him could have gone missing". " Mr. Perera had minuted<sup>205</sup> the directions describing "as per instructions of the top management" the investment was made and sent for approval by Governor"

- 11.1.5.4 Ms. R. Dheerasinghe (Superintendent/ Assistant Governor), opined that she "did not know the counterparty of the transaction in Ceylon Grain Elevators. The Investment in Ceylon Grain was not approved by the IC.<sup>206</sup> She went along with an officer of the MO and spoke to the Governor. The Governor explained and convinced that this is a viable project considering prospects and poultry sector was flourishing. The Governor (Mr. Cabraal) "did not instruct any one to invest directly in her own capacity. However, there were certain instances where the governor would explain the investment considering long term benefits and subsequently the investments were made and ratified in the subsequent IC minutes"

#### ***Investment in Galadari Hotels Lanka PLC in the year 2010***

- 11.1.6 The investment in Galadari Hotels Lanka PLC was done as per the instructions the MB in its meeting dated 5 May 2010, 11/2010 item number 7, instructed the superintendent of EPF to make arrangements to acquire a sizable portion of Galadari Hotels due to its high potential for returns, more active trading and acquire blue chip shares of level not exceeding 10 %. Based on the instructions of the MB, EPF purchased shares of Galadari Hotels.

#### ***Investment in Laugfs Gas PLC in the year 2011***

- 11.1.7 During the interviews with the deputy superintendent of EPF Mr. L.D.D.Y. Perera mentioned that "the holding company shared the proposal that the Governor and subsequently received in the EPF department."
- 11.1.8 Ms. Gunathilake, the additional superintendent of EPF informed that the "the holding company had come to meet the Governor and the Governor asked S/EPF to look at it after which a presentation on the investment opportunity was made by the holding company. It was further understood by the Investment Committee that the price was very high, but they saw the prospects in the company "She further stated that "it might have been the

<sup>205</sup> According to his memory

<sup>206</sup> As per the file for CGE and IC minutes provided for review, IC minutes opposing the purchase transaction in CGE was not available.

case that the Governor would have instructed to the S/EPF to purchase at that price, but I am not sure. However, the price has been approved by IC.”

- 11.1.9 According to Mr. J.D.S.J. Nanayakkara “it was a special purchase by EPF as the owner of Laugfs Gas PLC had written a letter to EPF department addressed to the Governor according to my memory.

#### **Investment in Colombo Dockyard PLC in the year 2010**

- 11.1.10 Mr. P.D.J. Fernando, Deputy Governor mentioned that “he does not remember clearly but if the particular investment was not in the Weekly Investment plan it could have happened that instructions came from the top”

#### **Investment in Hotel and tourism sector**

- 11.1.11 On review of the MB papers, it was noted that the MB vide its board paper 10/2010 dated 21 April 2010 had instructed the Superintendent of EPF to increase its investment in the hotel and travel sector to gain from rising potential for Profit of the sector. Post which investment in the following hotels was made by EPF which have resulted in losses to the EPF.

**Table 218: Losses in hotel companies**

Name of the entity	Date of concentrated investment	Amount of loss (LKR million)
Ceylon Hotel Corporation PLC	21 June 2010	(377.69)
Eden Hotels PLC	4 June 2010	(130.14)
Tal Lanka Hotels PLC	17 June 2010 and 21 June 2010	(225.10)

Source: SAP data provided by EPF

#### **Mackwood Energy PLC**

- 11.1.12 EPF subscribed for the initial public offer with the approval of the Investment Committee on 21 March 2012. A special approval of the Governor was obtained on 22 March 2012 prior to subscription of the IPO. The said approval was approved by the Governor and the same is attached as Exhibit 29.

### **11.2 Investment decisions by MB or Governor in unlisted equity**

- 11.2.1 Investment in unlisted equities (except unlisted banking and financial institution stocks, subject to conditions), was not expressly mentioned in IPS 2001, 2002 and ITG 2007. However, investment in unlisted shares of other sectors was allowed in the IPS and ITG 2011. Hence, there were no guidelines for investment in unlisted shares during the period between 2001 and 31 December 2011.
- 11.2.2 It is therefore not clear whether investment in unlisted stocks was permitted during the period 2002 to 2010 and no specific response on this matter was given to us during the



investigation. During the investigation, it was observed that the EPF invested in following three unlisted companies while it was non-permissible as per the IPS 2001.

**Table 219: Investment in unlisted equities**

Name of the company	Sector	Year	Amount (LKR/million)	Investment approved by
West Coast Power (Pvt) Limited	Power generation	2007, 2008	2,975	Approved by MB
Sri Lankan Airlines Limited (SLA)	Aviation	2010	500	Ratified by MB
Sri Lankan Catering Limited (SLC) 15 % Preference Shares	Aviation Catering	2010	1,000	Approved by MB
Total			4,475	

Source: SAP data provided by EPF

11.2.3 All of the above investments were done with either the approval of the MB or ratified by the MB subsequently. No ratification of investment in the above three unlisted stocks post implementation of IPS 2011 was provided for review.

11.2.4 Ms. R. Dheerasinghe (Superintendent/ Assistant Governor), opined that "the Governor (Mr. Cabraal) at that time normally never instructed directly but convinced regarding the prudence of a decision. There were certain instances where the Governor would explain the investment considering long term benefits and subsequently the investments were made and ratified in the subsequent IC minutes. In case of any transactions which were out of the laid down processes and procedures, the Governor would be privy of the same".

11.2.5 Ms. K. Gunatilleke (Additional Superintendent/Superintendent) stated that "the Governor had instructed in investments of EPF in general many times since he took interest in the EPF portfolio"

### 11.3 Investment decisions by MB or Governor in CBSL regulated entities

11.3.1 Investment in listed banking and financial equities was permitted as per IPS 2011. No provisions for the same were available prior to 2011. As per the rationale provided in the board paper, the said change was made in IPS 2011 to enable the EPF to diversify the equity portfolio into all the sectors and reap the benefits of the growing banking and financial industry.

11.3.2 Timelines for changes to the policy and investment in the banking shares is given below:

**Table 220: Chronology**

Date of Monetary Board decision	Decision	Particulars of the policy / or decision
3 March 1998	Not to invest in banks (Refer Exhibit 57)	"The EPF should refrain from investing in shares of the banking and financial sector since the monetary board is also the regulator of this sector. Such investment while reflecting a conflict of interest will also give a favorable/ unfavorable signal to the investing community regarding certain shares"



Date of Monetary Board decision	Decision	Particulars of the policy / or decision						
7 April 1998	Not to invest in banks (Refer Exhibit 58)	The EPF should not invest in shares of the Banking institutions coming under the preview of the Central Bank.						
21 December 2001	IPS 2001 -- Investment in unlisted shares of banks allowed	The investment policy statement introduced in 2001 allowed investment in unlisted shares of banks with the approval of IC and MB. However, the policy also stated that the EPF should not take controlling stake <sup>207</sup> in the banks.						
16 August 2005	Invested in shares of National development Bank	<p>Shares of National Development Bank were held by the Central Bank and were transferred to the EPF on 22 August 2005, with the approval of the Monetary Board.</p> <p>The Monetary Board had approved of waiving the EPF's investment in the shares of NDBL from the restriction on purchasing and trading in the financial sector shares.</p> <p><i>Rationale:</i> "The said shares were transferred to the EPF by the Central Bank as they cannot hold shares of the banking institution as per the provisions of Section 117 B of the Monetary Law Act."</p>						
7 April 2009	Not to invest in banks (Refer Exhibit 59)	The board was of the view the since the "MB was the regulator of the banks and as well as the custodian of the EPF, the committee should avoid investments in the shares of the banks".						
25 September 2009	Investment in Seylan Bank PLC on instructions of the Governor, Mr. Ajith Nivard Cabraal – (Refer Exhibit 60)	<p>EPF subscribed for public issue of 3 million shares of Seylan Bank PLC as per the instructions of the Governor, Mr. Ajith Nivard Cabraal. The total investment was of LKR 105 million.</p> <p>"In making the investment the view expressed by the Monetary Board that the Investment Committee should avoid investments in the shares of the Banks was considered, nevertheless this investment was considered appropriate".</p>						
12 October 2009	Ratification of Monetary Board for investment in Seylan Bank PLC (Refer Exhibit 61)	The Monetary Board ratified the investment in the public offer of Seylan Bank PLC. The Ratification of investment was specific to the investment in Seylan Bank PLC.						
5 November 2009	Investment in Commercial Bank of Ceylon PLC as per the instructions of the Governor, Mr. Ajith Nivard Cabraal (Refer Exhibit 62)	<p>As per the instructions of the Governor, Mr. Ajith Nivard Cabraal, EPF invested in the voting shares of Commercial Bank of Ceylon PLC (Investment portfolio) from 5 November 2009. The following were the details of the transactions:</p> <table border="1"> <thead> <tr> <th>Date</th> <th>Shares</th> <th>Amount invested in LKR Mn</th> </tr> </thead> <tbody> <tr> <td>5 November 2009</td> <td>35,000</td> <td>5.81</td> </tr> </tbody> </table>	Date	Shares	Amount invested in LKR Mn	5 November 2009	35,000	5.81
Date	Shares	Amount invested in LKR Mn						
5 November 2009	35,000	5.81						

<sup>207</sup> Substantial interest as per the banking act interpretations were ownership in the paid-up capital of the shares jointly or individually exceed 10 percent.



Date of Monetary Board decision	Decision	Particulars of the policy / or decision									
		<table border="1"> <tr> <td>6 November 2009</td> <td>20,900</td> <td>3.55</td> </tr> <tr> <td>9 November 2009</td> <td>16,100</td> <td>2.74</td> </tr> <tr> <td>Total</td> <td>72,000</td> <td>12.10</td> </tr> </table> <p><i>Source: Governor approval note and CSE data</i></p>	6 November 2009	20,900	3.55	9 November 2009	16,100	2.74	Total	72,000	12.10
6 November 2009	20,900	3.55									
9 November 2009	16,100	2.74									
Total	72,000	12.10									
17 November 2009	Ratification of Monetary Board for investment in <u>Commercial Bank PLC</u> (Refer Exhibit 63)	The Monetary Board ratified the investment in shares of Commercial Bank of Ceylon PLC. The ratification of investment was specific to the Investment in Commercial Bank PLC									
3 December 2009	Investment in <u>Hatton National Bank PLC</u> - as per the instructions of the Governor, Mr. Ajith Nivard Cabraal (Refer Exhibit 64)	EPF purchased 5.7 million voting shares of the Hatton National Bank amounting to LKR 923.40 million									
11 December 2009	Ratification of Monetary Board for investment in <u>Hatton National Bank PLC</u> (Refer Exhibit 65)	The Monetary Board ratified the investment in ordinary voting shares of Hatton National Bank PLC									
18 December 2009	Investment in <u>DFCC Bank PLC</u> as per the instructions of the S/EPF, Mr. M.J.S. Abeysinghe and approval of the Governor, Mr. Ajith Nivard Cabraal (Refer Exhibit 66)	EPF invested in 1.68 million voting shares of DFCC Bank PLC amounting to LKR 260.12 million on 18 December 2009, as per the instructions of the S/EPF, Mr. M J S Abeysinghe and the approval from Governor, Mr. Ajith Nivard Cabraal.									
17,18,20 November and 2010 December 2009	Purchase of shares for Commercial Bank of Ceylon	Shares of Commercial Bank of Ceylon PLC were purchased by the EPF department based on the approval given by the Governor, Mr. Ajith Nivard Cabraal on 5 November 2009.									
23 December 2009	<u>Further Investment in Commercial Bank PLC</u> ratified by the Monetary Board	Further investment of LKR 805 million in Commercial bank based on Governor, Mr. Ajith Nivard Cabraal approval on 17 November 2009.									
5 January 2010	<u>Ratification of Monetary Board for investment in DFCC Bank PLC</u> (Refer Exhibit 67)	Investment was made in the shares of DFCC Bank PLC of LKR 258.85 million and Ratification of the board was obtained.									
17 February 2010	Investment in <u>Sampath bank PLC</u> with the approval of the Governor, Mr. Ajith Nivard Cabraal (Refer Exhibit 68)	The EPF invested in 1,135,500 shares of Sampath Bank PLC amounting to LKR 249.81 million. The letter was signed by the Governor, Mr. Ajith Nivard Cabraal on 22 February 2019.									
17 March 2010	Ratification of Monetary Board for investment in	The Monetary Board ratified the investment in Sampath Bank PLC.									





Date of Monetary Board decision	Decision	Particulars of the policy / or decision																
	Sampath Bank PLC (Refer Exhibit 69)																	
Various dates	Further investment in other CBSL regulated entity	<p>Following investments were made in the CBSL regulated entities prior to the IPS and ITG 2011 being implemented:</p> <table border="1"> <thead> <tr> <th>Sr. No</th> <th>Name of the CBSL regulated entity</th> <th>Investment (LKR/million)</th> <th>Date of investment</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Lanka Orix Leasing Co PLC</td> <td>265.00</td> <td>13 October 2010</td> </tr> <tr> <td>2</td> <td>The Finance Company PLC</td> <td>179.90</td> <td>23 February 2011</td> </tr> <tr> <td>3</td> <td>Central Finance Companies PLC</td> <td>18.18</td> <td>25 May 2011</td> </tr> </tbody> </table> <p>The approval of the Governor, Mr. Ajith Nivard Cabraal was not available on records for investments in the above Non-Banking Financial Institutions. The above investments were not approved by the IC plan and were subsequently ratified</p>	Sr. No	Name of the CBSL regulated entity	Investment (LKR/million)	Date of investment	1	Lanka Orix Leasing Co PLC	265.00	13 October 2010	2	The Finance Company PLC	179.90	23 February 2011	3	Central Finance Companies PLC	18.18	25 May 2011
Sr. No	Name of the CBSL regulated entity	Investment (LKR/million)	Date of investment															
1	Lanka Orix Leasing Co PLC	265.00	13 October 2010															
2	The Finance Company PLC	179.90	23 February 2011															
3	Central Finance Companies PLC	18.18	25 May 2011															
30 December 2011	Investment in Listed shares of banks allowed	<p>The IPS and ITG was amended to allow investment in the shares of Listed Banking and Financial institutions.</p> <p>The said policy was approved by the Monetary Board on 30 December 2011 post approval of the IC.</p>																
30 March 2017	EPF to be a passive investor in case of Banks (Refer Exhibit 70)	<p>The Monetary Board decided that EPF would act as a passive participant in AGM /EGM and would vote with the decision of the company board.</p> <p>The board further instructed EPF that EPF shall be guided by the recommendations of the board of directors in relation to matters taken up at AGM/EMG unless there are reasons not to do so. In such case, S/EPF shall seek guidance from the Monetary Board.</p>																

*Source: Relevant Monetary board papers, internal documents and the SAP data provided by EPF*

- 11.3.3 On investigation of the supporting documents, it was noted that investments in five banks were done on the instructions of the Governor, Former Governor Mr. Ajith Nivard Cabraal. Following are the details of investments in banking shares on the instructions of the Governor.



**Table 221: Investment approval timelines**

Sr. No	Bank name	First investment (LKR/million)	Date of investment	Date of Governor approval <sup>209</sup>	IC ratification	MB ratification
1	Seylan Bank PLC	100.30 <sup>209</sup>	25 September 2009	29 September 2009	2 October 2009	12 October 2009
2	Commercial Bank of Ceylon PLC	5.81	5 November 2009	11 November 2009 <sup>210</sup>	11 November 2009	17 November 2009
3	Hatton National bank	923.40	3 December 2009	3 December 2009	4 December 2009	11 December 2009
4	DFCC Bank	260.12	18 December 2009	18 December 2009	23 December 2009	5 January 2010
5	Sampath Bank PLC	249.81	17 February 2010	22 February 2010	24 February 2010	17 March 2010
<b>Total</b>		<b>1,539.44</b>				

*Source: Documents provided by EPF for CBSL regulated entities and SAP data*

11.3.4 The details of total investment in the CBSL regulated entities as at 31 December 2017 was as follows:

**Table 222: Investment details**

Name of the script as per SAP data	Type of share	Amount of investment on 31 December 2017 (LKR/million)	Percentage holding of EPF in the company's share capital
Central Finance Company PLC	Voting	2,571.17	10.74
Sampath Bank PLC	Voting	3,574.79	9.97
Seylan Bank PLC	Voting	1,154.03	9.86
Hatton National Bank PLC	Voting	6,470.84	9.75
Commercial Bank of Ceylon PLC	Voting	9,067.07	9.65
National Development Bank PLC	Voting	1,523.24	9.69
DFCC Bank PLC	Voting	3,395.97	9.19
The Finance Company PLC	Voting	205.49	8.43
Peoples' Leasing and Finance PLC	Voting	1,237.42	5.43
Seylan Bank PLC	Non - Voting	339.64	5.33
Lanka Orix Leasing Co PLC	Voting	1,611.01	3.20

<sup>209</sup> Governor's approval was observed to have been sought on internal notes. These internal notes were signed by the Governor and deputy Governors. The note mentions that EPF started purchasing shares of Commercial Bank from 5 November 2009 in its investment portfolio as instructed by the Governor, Mr. Ajith Nivard Cabraal.

<sup>209</sup> EPF had subscribed for shares of LKR 105 million in the public offer. However, shares of LKR 100.30 million were purchased

<sup>210</sup> The approval of the Governor was obtained on 11 November 2009. However, as per the approval note the shares have been purchased from 5 November 2009 with the approval of the Governor, Mr. Ajith Nivard Cabraal.



Name of the script as per SAP data	Type of share	Amount of investment on 31 December 2017 (LKR/million)	Percentage holding of EPF in the company's share capital
Nations Trust Bank PLC	Voting	8.08	.211
Total		31,158.75	

Source: Financial statement of EPF and financials of respective banks for EPF holdings

- 11.3.5 On our review of IC and MB ratifications for the five bank investments, it was noted that no detailed explanations were available to justify the 'instructions' for investment and a consistent pattern of ratification was observed.
- 11.3.6 The minutes made available for such ratifications did not have any documentation of any objection or query being raised by any other IC or MB members about the judiciousness of approval without such investment being allowed as per the laid guidelines. The list of personnel in such meetings is set out in Annexure 47.
- 11.3.7 Subsequent ratification for above mentioned five investments may rectify the legal standing of such investments by EPF. However, it does raise questions related to prevailing governance standards at that time in the MB and IC.

<sup>211</sup> The percentage holding was less than 0.5 percent and hence the data for the same was not available on the company annual reports

## 12 Voting rights

### 12.1 Background

12.1.1 EPF, based on its investment in various companies, was entitled to voting rights and exercised them during the period 1 January 1998 to 31 December 2017. The focus of investigation was to identify instances where voting rights in shares have been exercised (or proxies filed) opposing the recommendations of the board of directors of investee companies and the basis and authority for such decisions.

### 12.2 Policy framework for exercising voting rights

12.2.1 IPS and ITG laid down the policy framework for voting at the Annual General Meeting (AGM) and Extra Ordinary General Meetings (EGM) of investee companies. The following was the policy laid down in IPS:

**Table 223: IPS' clauses**

Particulars	September 2001	December 2002	December 2011
IPS	At discretion of the IC, the fund can vote, at annual general meetings of the investee companies.	Same as 2001	At the discretion of IC, EPF can vote at the shareholder's meetings.

*Source: Investment Policy Statement 2001, 2002 and 2011.*

12.2.2 The following were the guidelines as per the ITG:

**Table 224: ITG's clauses**

Particulars	March 2007	December 2011
ITG: AGM	No guidelines specified relating to exercising voting rights.	<ol style="list-style-type: none"> <li>1. Authority to sign proxy forms delegated to Deputy Governor (DG) in charge of EPF.</li> <li>2. DG to nominate officers of FMD to attend AGM and cast vote on behalf of EPF in AGM.</li> <li>3. In the event where nominated officer was not apprised of any special items in the agenda for which votes are sought (except for reappointment of director and auditors), the officer shall refrain from voting for those proposals in AGM.</li> </ol>
ITG: EGM	No guidelines specified relating to exercising voting rights.	<ol style="list-style-type: none"> <li>1. MO to inform the special items in EGM agenda to IC and obtain approval of IC to vote 'for/against' such proposals.</li> <li>2. DG to nominate officers to attend EGM and vote on behalf of EPF in accordance with the decisions taken at IC.</li> <li>3. The authority to sign proxy forms on behalf of the fund is delegated to DG in charge of EPF.</li> </ol>

*Source: Investment Trading Guidelines for 2007 and 2011.*

12.2.3 The below mentioned are the decisions of the MB with respect to policy framework for voting rights:



**Table 225: Key decisions**

Date of the MB meeting	Decision	Decision of Monetary Board with respect to voting
25 September 2000	Delegation of authority for Voting	<p>Delegating authority to the Deputy Governor supervising the Employee's Provident Fund (EPF) to:</p> <ol style="list-style-type: none"> <li>1. Nominate suitable officer from EPF to attend AGM/EGM meeting on behalf of EPF, subject to subsequent ratification by the board; and</li> <li>2. Sign the forms of proxies in connection with Annual General Meetings (AGM)</li> </ol> <p>MB also decided that officers attending the AGM should submit status update to S/EPF and that S/EPF should submit such status update to the Monetary Board<sup>212</sup>.</p> <p><b>Rationale<sup>213</sup></b></p> <p>As per the board paper the delegation was sought due to following reasons:</p> <ol style="list-style-type: none"> <li>1. "EPF has invested in large number of companies listed and AGMs of these companies are convened very frequently at short notice"</li> <li>2. "Due to difficulty in obtaining approval of the Board in time when such meetings are convened"</li> </ol>
30 March 2017	Voting rights	<p>MB decided that EPF shall be a passive participant at AGM/EGM of shareholders of licensed bank and all other companies where EPF holds shares and shall not be actively involved in voting at these meetings.</p> <p>EPF shall be guided by the recommendation of the Board of Directors in relation to matters taken at AGM/EGM, unless there are reasons not to do so, in which S/EPF shall seek guidance from the Monetary Board.</p>

*Source: Relevant Monetary Board papers during the period 1998 to 2017.*

12.2.4 Process and practices followed by the EPF as per the process walkthrough by the EPF department (Meeting dated 27 May 2019) are set out in Annexure 48.

### 12.3 Overall analysis of voting pattern

#### *Information received from EPF department*

12.3.1 KPMG received the proxy forms pertaining to voting rights exercised by the EPF for the period June 2011 to 2017<sup>214</sup>). It was noted that proxy forms were received late by the EPF department and EPF could not vote in the said meetings Details of the same are provided in Annexure 49. Multiple copies of proxy forms with contradictory details for the same meeting were found in the data provided by EPF (Refer Annexure 50 for the details). On

<sup>212</sup> From the documents made available for review, no status update document in respect of voting done at meetings by EPF officials was available.

<sup>213</sup> Rationale has been identified as mentioned in the Monetary Board paper.

<sup>214</sup> Proxy forms were not available for the period October 2013 to February 2014 and for June 2015.

investigation of the data provided by EPF, it was noted that the following proxy forms were available for 76 companies where the EPF had invested:

**Table 226: Count of meeting**

Type of meeting	Count of meetings attended by EPF <sup>215</sup>	Potential number of total meetings held as per the Investment data
AGM	258	527 <sup>216</sup>
EGM	45	N.A. <sup>217</sup>
<b>Total</b>	<b>303</b>	

*Source: Proxy forms received from EPF and KPMG workings.*

12.3.2 Details in respect of AGM and EGM attended by EPF and potential number of AGM held are set out in Annexure 51, 52 and 53 respectively.

**Information received from Investee companies**

12.3.3 In the absence of complete information regarding the voting rights exercised by EPF, it was agreed with FAMC and Board Secretariat will reach out to the investee companies and get records of such votes casted by EPF.

12.3.4 Letters were sent to 83 investee companies, out of which 56 investee companies provided data in the form of either summary of the voting details and/or copies of proxy forMs The provisions of Section 116 (1) (g) of the Companies Act mandate the companies to store data for 10 years' time period. Hence 47 out of 56 investee companies cited the aforementioned provisions and provided details only for the period between 2009 and 2017 whereas nine companies provided data for the entire Review Period i.e. 1998 to 2017.

**Table 227: Summary of information provided by listed companies**

Particulars	Count of companies	AGM		EGM		Total	
		Total held	Attended by EPF	Total held	Attended by EPF	Total held	Attended by EPF
1998-2008	9	58	6	14	3	72	9
2009-2017	51 <sup>218</sup>	292	182	52	33	344	215
Others <sup>219</sup>	5	-	-	-	-	-	-
<b>Total</b>	<b>56</b>	<b>350</b>	<b>188</b>	<b>66</b>	<b>36</b>	<b>416</b>	<b>224</b>

*Source: Proxy forms and data received from investee companies.*

<sup>215</sup> Only duly complete and legible proxy forms (Date, Proxy name, signature and stamp of DG) were considered for the purpose of arriving at the count of shareholders meetings attended by the EPF.

<sup>216</sup> The potential number of total meetings has been calculated with an assumption that the investee company held its meeting once every year in the month of March. The count of potential meetings is based on the number of companies in which EPF held investments as on 31 March every year. The same may not be accurate if any of the companies had not held a meeting in a specific year.

<sup>217</sup> The potential number of EGMs is not identifiable as it is not conducted on annual basis.

<sup>218</sup> The total count of 51 includes the nine companies which have provided data for the period 1998 to 2008.

<sup>219</sup> These are the companies for which the EPF either held non-voting shares or did not attend any shareholder's meeting as per the companies' records.



12.3.5 Out of total 416 meetings conducted by 56 investee companies, EPF had attended 224 meetings. On investigation of the proxy forms provided by the investee companies, KPMG noted four cases where EPF had voted against the resolution of the company. Details in respect of AGM and EGM attended by EPF as per data received from the investee companies are set out in Annexure 54 and 55 respectively.

12.3.6 On comparison of proxy forms received from EPF and those from the investee companies, following cases of voting against the resolution by EPF based on source data were noted:

**Table 228: Summary of voting 'against' the company**

Sr. no	Name of the Company	Type	Date of meeting	Against as per EPF data	Against as per investee company	Resolution voted against
1	Commercial Bank of Ceylon PLC	AGM	30 March 2011	Not available	Yes	Re-appoint/re-elect Director
2	Hatton National Bank PLC <sup>220</sup>	AGM	30 March 2015	Yes	Yes	Re-elect director
3	Commercial Bank of Ceylon PLC	AGM	31 March 2015	Yes	Yes	Re-elect director
4	Seylan Bank PLC	AGM	31 March 2015	Yes	Yes	Re-elect director
5	National Development Bank PLC	EGM	27 July 2016	Yes	Yes	Change in articles of association

*Source: Data received from EPF and investee companies.*

12.3.7 On comparison of proxy forms received from EPF and those from the investee companies, following contradictory information was received:

**Table 229: Comparison of voting**

Sr. no	Name of the Company	Type of meeting	Date of meeting	Against as per EPF data	Against as per investee company	Resolution voted against
1	Hatton National Bank PLC	AGM	30 March 2017	Yes	No	Re-elect director
2	DFCC Bank PLC	AGM	30 March 2017	Yes	No	Re-elect director
3	Seylan Bank PLC	AGM	31 March 2017	Yes	No	Re-elect director

*Source: Data received from EPF and investee companies.*

Refer Exhibit 71, 72, 73 and 74 for the multiple copies of the proxy forms

<sup>220</sup> Multiple proxy forms with contradictory voting details were available in the data provided by the EPF. Refer Annexure 50 for details.



- 12.3.8 For the above cases multiple proxy forms with contradictory voting details were noted in the information received from EPF. Refer Annexure 50 for details of multiple proxy forms. On receipt of information from the investee companies, it was noted that the EPF had abstained from voting in all the above three cases. KPMG has relied on the data received from the investee companies and has not considered the above cases to be voted 'against' for investigation.
- 12.3.9 Supporting documents were reviewed to identify the basis for voting and the approvals for the same. Given below is a summary of the analysis

**Table 230: Approvals and rationale**

Case No.	Name	AGM / EGM and date	Type of resolution	Exhibit No. -	IC Approval	Rationale
1	Commercial Bank of Ceylon PLC	AGM / 30 March 2011	Re-appoint/re-elect Directors	Exhibit 75	Not available	No rationale for voting 'against' was documented in the documents provided for investigation
2	Commercial Bank of Ceylon PLC	AGM / 31 March 2015	Re-elect director	Exhibit 76		
3	Seylan Bank PLC	AGM / 31 March 2015	Re-elect director	Exhibit 77		
4	Hatton National Bank PLC	AGM / 30 March 2015	Re-elect director	Exhibit 78		
5	National Development Bank	AGM / 27 July 2016	Change in articles of association	Exhibit 79		

*Source: Proxy forms received from EPF and Investee company and supporting documents provided by EPF.*

Refer Annexure 56 for details of resolutions for which EPF had voted 'against' the resolution of the board of Investee Company.

#### **Non-compliances**

- 12.3.10 Mr. A.G.U Tillakaratne, Superintendent EPF had confirmed that no control mechanism existed to track the status of the general meetings attended by EPF. Further, the status updates provided to the EPF management after the AGM/EGM were not available.
- 12.3.11 Voting in case of Commercial Bank of Ceylon (in 2011), was in contravention to the IC instructions to vote for the resolutions in the meeting. The same was instructed by the IC in its meeting dated 23 March 2011. No rationale has been provided for overruling the decision of IC for voting. Refer Exhibit 80 for IC meeting minutes.
- 12.3.12 Additional shares of Commercial Bank of Ceylon were purchased on 28 March 2011 and 29 March 2011, i.e. just prior to the AGM and EGM held on 30 March 2011. 5 million shares purchased by EPF were not in accordance with the IC approved quantity (2 million shares) agreed in the IC Meeting<sup>221</sup>. (Refer Exhibit 81 for the IC recommendation to buy 2

<sup>221</sup> Dated 23 March 2011

million shares) However, the transaction was subsequently ratified by the IC on 7 April 2011. The said purchase of shares increased the percentage holding in Commercial bank of Ceylon from 7.07 percent to 8.50 percent. Refer Exhibit 82 and 83 for the transaction execution documents for the transaction dated 28 March 2011 and 29 March 2011.

In relation to the case of EPF buying shares of Commercial bank of Ceylon just prior to the AGM and EGM, Mr. B.D.W.A. Silva (Assistant Governor) explained that *"there could have been an attempt to influence the selection of a Board Member through the government ownership in SLIC, Bank of Ceylon, EPF and ETF collectively"*.

#### **Other observations**

- 12.3.13 For three meetings held in March 2015 EPF had voted against the investee company proposed resolution. In these cases, EPF had recommended the names of persons for the post of Directors and Chairman to the board of the respective banks pursuant to recommendations received from the Ministry of Finance, Sri Lanka and approval from the Monetary Board. Details of the same are set out in Annexure 57. Refer Exhibit 84 and Exhibit 85 for email from Ms. Dimuthu Samarathunga and MB paper for nomination of individuals identified by the Ministry of Finance.
- 12.3.14 The internal documents for voting against the resolution of Hatton National Bank shows that DG, Mr. P Samarasiri had signed a blank proxy form for voting related to Hatton National Bank, and it was shared with the Ministry of Finance. Refer Exhibit 86 for the internal documents and copy of blank proxy form. Details of other supporting information are set out in Annexure 58.
- 12.3.15 Following is the written response to one of the questions posed to Mr. R. A. A. Jayalath, then Superintendent of EPF *"According to my recollection on HNB related activities, first proxy form marked as per the requirement of the Government (as understood by the EPF and DG) and signed by DG, Mr. Samarasiri (Senior Deputy Governor acting for Mr. Silva in his absence) was sent to MOF. However MOF returned such marked and signed proxy forms requesting us to send signed proxy forms unmarked. Accordingly, this was informed to DG, Mr. Silva (overseeing EPF) and he agreed to sign it as he was aware of the stand taken by the Government. Accordingly signed unmarked proxy forms were sent to MOF in that instance"*.

In response to a question related to the 2015 case of Hatton National Bank (HNB) where EPF voted 'against' the resolution for reappointing of director viz. Ms. Rani Jayamaha, following was Mr. R.A.A..Jayalath's response *"EPF had no specific reason to vote in favour or against the resolution to re-appoint Ms. Jayamaha. It was done on the instructions of higher management/signing authority and the Ministry of Finance (MOF). Office minutes made in relevant file would testify for this position, though the practice of higher officers was to give only verbal instructions in such instances"*.



## 12.4 Persons or authority involved in the decisions to vote against

12.4.1 On investigation of the proxy forms, following people were identified to be involved in the voting process of EPF i.e. decision making, attending the meeting as proxy or the names have been mentioned in the internal documents for voting against the decision of the management of the investee company:

**Table 231: Decision making for voting**

Case No.	Name of the company	Name of the DG signing the proxy	Name of officer in the proxy form	Any other person noted in the documents
1	Commercial Bank of Ceylon PLC - 30 March 2011 (AGM)	Mr. P.D.J. Fernando	Ms K. Gunatilleke-Additional Superintendent	<p><u>Following are the persons involved in the execution of trade on 28 March 2011 and 29 March 2011:</u></p> <ol style="list-style-type: none"> <li>Ms R. Dheerasinghe- Superintendent of EPF</li> <li>Mr. L.D.D.Y. Perera- Deputy Superintendent</li> <li>Mr. M.S.M. Husam- Assistant Superintendent</li> <li>Ms. G.H.P.P. Shyamalie- Assistant Superintendent</li> </ol> <p><u>Following are the members at the IC meeting dated 23 March 2011:</u></p> <ol style="list-style-type: none"> <li>Mr. P.D.J. Fernando- Deputy Governor</li> <li>Ms. C.M.D.N.K. Seneviratne- Acting Superintendent of EPF</li> <li>Ms. K. Gunatilleke - Additional Superintendent of EPF</li> </ol>
2	Commercial Bank of Ceylon PLC - 31 March 2015 (AGM)	Mr. B.D.W.A. Silva	Ms D.P. Udugamkorala- Assistant Superintendent	NA
3	Seylan Bank PLC - 31 March 2015 (AGM)	Mr. B.D.W.A. Silva	Mr. S. Pathumanapan- Assistant Superintendent	NA
4	Hatton National Bank PLC - 30 March 2015 (AGM)	Mr. B.D.W.A. Silva	Mr. S. Pathumanapan- Assistant Superintendent	<ol style="list-style-type: none"> <li>Deputy Governor signing the blank proxy form- Mr. P. Samarasiri</li> <li>Mr. R.A.A. Jayalath – Superintendent of EPF</li> </ol>
5	National Development Bank - 27 July 2016 (EGM)	Mr. S. Lankathilake	Mr. T.C.U. Jayanetti- Senior Assistant Superintendent	NA

*Source: Proxy forms received from investee companies and copies of internal documents provided by the EPF.*

12.4.2 Following are the explanations by EPF/CBSL officials in relation to cases of voting 'against' resolutions of banks. Mr. P D J Fernando explained that according to his views,



he is not in favour of the decision of EPF appointing Mr. Hullugale, then as well as today. He said that he does not recollect the events that transpired and does not recollect EPF had voted against Mr. Ranjith Fernando as per the proxy form. He further explained that he did not evaluate the decision of voting against Mr. Ranjith Fernando and explained that he was not aware of his role in authorizing voting decisions of EPF, during his tenure as the Deputy Governor.

- 12.4.3 Ms. K. Gunatilleke stated "I was unable to recollect the sequence of events and I was 'instructed' to go to the AGM and sign as per the instructions of the Deputy Governor (DG)."
- 12.4.4 Mr. S. Pathumanapan (Assistant Superintendent) stated that "I was instructed by then S/EPF Mr. R A A Jayalath to vote as per the proxy form if there was any poll. Further, during the AGM/EGM, a person called "Ms. Dimuthu Samarathunga" from Ministry of Finance (CBSL officer seconded to MOF) contacted me couple of times and informed me that there was change of the decision by the Government and that I should vote differently to the proxy." In response to the question in relation to the above, Ms. Dimuthu Samarathunga responded stated that "I contacted the proxy-attendee and made such request based on the Finance Minister's instruction"

*Mr. R. A.A. Jayalath (Superintendent) in response to the questionnaire sent to him stated "I was informed by the Governor Mr. Mahendran that Government has decided to replace all those directors of banking institutions appointed by previous Government using the shareholding by Government related institutions in respective banks and allowing the banks to run independently thereafter. Accordingly, he instructed me to send proxy forms for Annual General Meetings (AGMs) of all banking institutions relating to shares held by EPF to Ministry of Finance whenever such proxy forms were received and ask the proxies of EPF to vote in line with other Government related shareholders. Deputy Governor (DG) Mr. Samarasiri also confirmed this position when I check this with him. Later on I was made to understand that this was discussed and communicated to banking institutions at a meeting held at the Central Bank with the participation of bankers, Higher officials of CBSL, MOF and the Government Ministers. Subsequently, I received a request from Director/ Economic Affairs of MOF for the signed proxy forms. Deputy Governor was the authority for signing proxy forms on behalf of EPF/Monetary Board."*

*Further, it was observed that in response to a general question related to the role of Ministry of Finance in appointment of Directors to Banks, Ms. Dimuthu Samarathunga responded that "Finance Minister instructed me to coordinate with EPF in making arrangements to appoint the persons named by him to the identified Banks."*

- 12.4.5 MB on 3 March 1998 and 7 April 1998 (refer Table 220) had indicated not to invest in banks due to potential conflict of interest. In the above instances it appears that potential conflict of interest may arise if active participation of EPF is present in appointment/removal of directors of the banks. We understand that the voting policy has been updated and EPF will go forward mainly act as a passive investor.

## 13 Auditor General

### 13.1 Background

- 13.1.1 Section 6 (1) of the EPF Act requires annual audit of the books of accounts of EPF to be carried out by the Auditor General (AG) of Sri Lanka and audit report submitted to the Parliament. Observations noted by the AG during the annual audits were part of reports submitted during the period 1998 to 2017.
- 13.1.2 Scope of the investigation required examination of reports of the AG, examine the queries raised by AG and if adequate action has been taken by EPF to address the concerns raised by AG.
- 13.1.3 During the investigation, it was identified that the audit report for 1998 and 1999 were not available with the EPF department. Copies of the report were also not retrievable from AG's office. On a detailed analysis of the available AG reports, 105 observations (including few recurring issues) were identified for the period 2000<sup>222</sup> to 2017. AG's report had not identified names of the companies for many observations and at appropriate places, such names have been inferred based on the industry classification and EPF's transaction data.

Table: 232: AG's observations

Type of observation	Name of the Company / Industry	Count of observations	EPF Responses
Losses and impairment of equity investments	Sri Lankan Airlines Limited	6	4
	West Coast Power Limited	1	1
	Canwill Holdings Private Limited	4	2
	Galadarj Hotels Lanka PLC	6	4
	The Finance Company PLC	6	4
	PC House PLC	5	3
	Laufs Gas PLC	1	1
	Hotel Companies <sup>223</sup>	10	5
	Unspecified Impairment losses	4	3
	Unidentified losses	40	17
	<b>Total</b>		<b>83<sup>224</sup></b>
Accounting deficiency	Non-compliance with the Sri Lankan Accounting Standards	2	1
	Non-disclosure of information in financial statements	3	2
	Items not brought to account	1	-
	Provisions not made in the books of accounts	1	-
	<b>Total</b>		<b>7</b>

<sup>222</sup> Auditor General Report for the period 1998 and 1999 were not available with the EPF department.

<sup>223</sup> The names of the hotel companies making losses were not mentioned in the report. Accordingly, the number of times observation has repeated is not company wise.

<sup>224</sup> For the above categories there were 78 unique observations appearing in the AG reports. The balance five appeared in multiple companies/categories.

<sup>225</sup> Responses were received for 39 unique observations appearing in the AG reports. The additional five are due to receiving responses for multiple companies/categories in a single response.



Type of observation	Name of the Company / Industry	Count of observations	EPF Responses
Other observations	Non- Compliance with Laws, rules, Regulations, Management decisions	7	1
	Lack of Evidence for Audit	2	1
	Systems and Controls	5	3
	Operating inefficiencies	1	1
	<b>Total</b>	<b>15</b>	<b>6</b>
<b>Total</b>		<b>105</b>	<b>53</b>

*Source: KPMG workings, AG reports and documents provided for review by EPF department*

### 13.2 Framework for resolution of AG's Observations

13.2.1 KPMG held multiple meetings with the Accounts and Finance Division of EPF to understand the process for remediating the observations since no documented procedure was made available for investigation. The Accounts and Finance Division explained that the following was the process followed by EPF:

- Final audit observations related to EPF are communicated by AG to the Superintendent of EPF (S/EPF) through the Governor of the Central Bank. S/EPF in turn forwards them to the Accounts Division for appropriate dissemination to various divisions within EPF.
- Divisions share their responses and action plan to the Accounts Division through their respective Deputy and Additional Superintendent in charge of the Division. S/EPF is responsible for the overall response whereas the Accounts division is responsible for compiling the responses to the queries.
- Till 2018, responses to audit observations were submitted to Auditor General through the Deputy Governor in charge of EPF. Post 2018, responses are submitted to the Monetary Board and thereafter to the Auditor General.

13.2.2 Based on the understanding of the process, KPMG requested for the internal memorandums prepared by respective divisions for observations pertaining to the investments.

#### **Action taken reports and officials responsible for resolution**

13.2.3 Due to unavailability of records for prior period, EPF department "is not in a position to provide the names of officers and their respective departments responsible for the resolution of the AG's observations appearing in the Final Auditor General's Report". However, based on the documents made available, action taken reports/ corrective action report/status could be identified from the Monetary Board papers for the years 2004, 2005, and 2017.



### 13.3 Observations pertaining to losses/no income on investments

13.3.1 Auditor General had raised observations and highlighted instances of losses in investment in equity shares during the period 2000 to 2017.

**Table 233: Investments leading to losses or not generating income**

Industry as per AG's report	Name of the company/ Industry	Year of investment <sup>226</sup>	Year of first AG observation	No. of years observation repeated	EPF response on observation by AG
Airline company	Sri Lankan Airlines Limited	2010	2011	6	4
Electricity generation	West Coast Power Limited	2007	2011	1	1
Hotel sector	Canwill Holdings Private Limited	2013	2013	4	2
Hotel sector	Galadari Hotels Lanka PLC	2010	2011	6	4
Finance company	The Finance Company PLC	2010	2011	6	4
Technology company	PC House PLC	2010	2011	5	3
Gas company	Laugfs Gas PLC	2010	2012	1	1
Hotel sector	Hotel Companies <sup>227</sup>	-	2011	10	7
-	Unspecified Impairment losses	-	2012	4	3
-	Unidentified losses	-	2001	40	20
	<b>Total</b>			<b>83<sup>228</sup></b>	<b>49<sup>229</sup></b>

Source: KPMG workings and Auditor General reports

13.3.2 The losses incurred by EPF in equity investments have been specifically highlighted in the section for listed and unlisted investments. Mentioned below are the details of observations raised and responses submitted to the AG against the said observations.

### 13.4 Losses incurred on investment in Sri Lankan Airlines Limited

13.4.1 The EPF had invested a sum of LKR 500 million in shares of Sri Lankan Airlines on 12 July 2010. However, no income yielded to EPF since the date of investment. In the year 2015, the EPF had impaired the value of these investments from the financial statements as a loss.

13.4.2 AG in its report for 2015 mentioned that the accumulated losses sustained by Sri Lankan Airlines by the end of the year 2015 were LKR 128,238 million. Further, the AG pointed out

<sup>226</sup> Year of first investment in the company was considered to be the year of investments.

<sup>227</sup> The names of the hotel companies making losses were not mentioned in the report. Accordingly, the number of times observation has repeated is not company wise.

<sup>228</sup> For the above categories there were 78 unique observations appearing in the AG reports. The balance five appeared in multiple companies/categories.

<sup>229</sup> Responses were received for 44 unique observations appearing in the AG reports. The additional five are due to receiving responses for multiple companies/categories in a single response.

in its report for the year 2017 that Sri Lankan Airlines was already incurring losses at the time of investment by the EPF.

**Table 234: Gist of observations**

Sr. No	Observation raised by AG	Reporting year
1	No income accrued to the EPF since the date of Investment	2011, 2012, 2013, 2014, 2015
2	Impairment loss incurred on the investment	2015, 2017

*Source: Extracts of EPF annual returns and Auditor General reports*

13.4.3 Response provided by the EPF and the Governor indicated that the investment was made in 2010 with a long-term perspective and would turn profitable within a period of 5 to 10 years. The said rationale was provided by the Governor to the COPA in its meeting dated 6 February 2013.

13.4.4 Refer Annexure 59 for the year-wise observations raised by AG and the response thereto.

**Status of the investment as on 31 December 2017**

13.4.5 The investment in Sri Lankan Airlines was impaired as on 31 March 2015 leaving a nominal value of LKR 100 in the books of accounts. The total impairment loss booked on the investment was LKR 499.99 million as per the books of accounts.

13.4.6 Some of the key issues noted at the time of investments and the personnel involved in the transactions is set out below:

- IC approval date prior to receipt of proposal
- Evidence of analysis done by Middle office not available on record
- Shareholder agreement not available on records
- Funds remitted for investment prior to Monetary Board approval and investment decision subsequently ratified.

**Table 235: People involved in the decision for transfer of funds:**

Name of the person	Designation
Mr. P. D. J. Fernando	Deputy Governor
Mr. B. D. W. A Silva	Assistant Governor
Mr. R. Dheerasignhe	Superintendent
Ms. K. Gunatilleke	Assistant Superintendent
Mr. L. D. D. Y. Perera	Deputy Superintendent
Mr. G. H. P. P. Shyamalie	Fund Manager

*Source: Documents provided by EPF*

**13.5 Low income derived from West Coast Power Limited**

13.5.1 EPF had invested a total of LKR 2,975 million in West Coast Power Limited during the period April 2007 to November 2008. No income yielded to EPF on these investments for the years 2008, 2009 and 2010. However, in the year 2011, the AG had raised queries pertaining to low income generated from the investment in West Coast Power Limited. The AG also



mentioned that the income received as considered for the period of investment represented 4 per cent annually.

**Table 236: Gist of observation**

Sr. no	Type of observation raised by AG	Reporting year
1	No income accrued to the EPF since the date of Investment	2011

*Source: AG reports provided by EPF*

13.5.2 The EPF in its response had mentioned that the company has turned profitable and has provided positive dividends to EPF. Year-wise observations raised by AG and the response thereto are set out in Annexure 60.

13.5.3 On review of the dividends received by the EPF from the SAP data, it was noted that post 2011, investment in West Coast Power Limited has provided a total return of LKR 5,341.47 million till 31 December 2017. Following are the year wise dividends received from West Coast Power Limited:

**Table 237: Dividend summary**

Year	Dividend received (LKR/million)
2011	540.91
2012	216.36
2013	811.36
2014	730.23
2015	1,014.20
2016	811.36
2017	1,217.05
<b>Total</b>	<b>5,341.47</b>

*Source: SAP data provided by EPF*

### 13.6 Losses incurred on investment in 'The Finance Company PLC'

13.6.1 EPF had invested a sum of LKR 205.49 million in 5,091,200 units of The Finance Company PLC from 23 February 2011 to 1 November 2011. AG had noted that the company had accumulated losses and was making loss in the year in which the investment was made. Year-wise observations raised by AG and the response thereto are set out in Annexure 61.

**Table 238: Gist of observations**

Sr. No.	Type of observation raised by AG	Reporting year
1	Investment in loss making company	2011, 2013, 2014, 2015, 2017
2	No income accrued to the EPF since the date of Investment	2011, 2012, 2013, 2014, 2015, 2017
3	Diminishing share market price	2011, 2013
4	Impairment loss	2017 <sup>230</sup>

<sup>230</sup> Investment were impaired in the years 2015, 2016 and 2017. However, the AG had reported impairment only in the AG report for the year 2017.



Sr. No.	Type of observation raised by AG	Reporting year
<i>Source: AG reports provided by EPF</i>		

- 13.6.2 AG's observations pertaining to losses in The Finance Company PLC are:
- 13.6.2.1 EPF had not received any income in the form of dividends from the investment since the date of investment till 2017 as per the entries in the SAP system. The Fund impaired the investments as at 31 December 2015 and 31 December 2016 booking a loss of LKR 179.02 million.
- 13.6.2.2 On review of the responses to the Auditor General observation with regards to investment in The Finance Company, following was noted:
- In the audit report for 2012, the Central Bank stated that the investment would be profitable in the future.
  - As per the Governor, Mr. Ajith Nivard Cabraal's reply to COPA in 2013, EPF was unable to make profits from the investment due to short term fluctuations in the market.
  - As per the audit report for 2014, the response to the observation mentioned that the company was under restructuring and there were no future financial prospects for the company to revive. Thus, in 2015 and 2016, the investment loss of LKR 179.02 million was booked.
  - In 2017, the response to the observation stated that it was expected that the company losses would reverse due to macro-economic factors. These macro-economic factors, such as revival of property prices, positive impact of the capital structure were the main considerations for EPF to hold the investment.

### 13.7 Losses incurred on investment in PC House Limited

- 13.7.1 EPF had invested LKR 680.23 million in 20,942,989 shares of PC House PLC and the share of this company had not been offered for sale in the stock market since 2009. The Fund had received dividends for 2008 to 2011; however, the dividend income was not commensurate with the investment. Further, the EPF had purchased 11,324,228 shares at a cost of LKR 43.93 million in or about April 2013, while the liquidity of that company had not been considered.
- 13.7.2 AG's report highlighted that the company had incurred huge losses during the accounting period 2012-2013 and the auditors had expressed a qualified opinion on the going concern of the company. Further, the AG report mentioned that in 2015, the share prices of the company had diminished by 97 percent; however, no action had been taken to impair such investments.
- 13.7.3 The report also stated that EPF had not received any income from the investments made in 2013 till 2017. Besides an actual loss of LKR 43 million was sustained by the Fund by selling the shares in 2016. Year wise observations raised by AG and the response thereto are set out in Annexure 62.

**Table 239: Gist of observations**

Sr. no.	Type of observation raised by AG	Reporting year
1	No capital gains as shares not traded in the share market	2011, 2012
2	Investment in loss making company	2017
3	No income accrued to the EPF since the date of Investment	2017 <sup>231</sup>
4	Diminishing share market price	2013, 2014
5	Loss on sale of shares	2017

*Source: AG reports provided by EPF*

13.7.4 Responses to the queries of AG observations were as follows:

- In 2011, CBSL was of the opinion that the communications field would be developed, and the company would turn profitable and provide dividends and capital profits to EPF.
- As per the response to the audit for 2012, the Central Bank of Sri Lanka was of the view that the dividends and capital gains from this company would increase in the future with the expansion of Communications sector along with the economic development of the country.
- The Governor in his letter to the Ministry of Planning had mentioned that the investment in PC House was a strategic investment and the same would make profits in the future.

**13.8 Losses incurred on investment in Laugfs' Gas PLC**

13.8.1 EPF had invested in the voting and non-voting shares of Laugfs Gas PLC in 2010 to the tune of LKR 3,390.46 million. AG's report mentioned that by 2013, EPF had reached second place in the ownership of shares with voting rights and first place in the ownership of shares without voting rights. However, the value of such shares had largely diminished. Year-wise observations raised by AG and the response thereto are set out in Annexure 63.

**Table 240: Gist of observations**

Sr no	Type of observation raised by AG	Year of AG report
1	Diminishing share market price	2012

*Source: AG reports provided by EPF*

13.8.2 Below mentioned are the responses to AG observations related to Laugfs Gas PLC:

- In 2012, CBSL was of the view that the investment was made in Laugfs gas which was a profit-making unit at the time of investment. It was considered to be a long-term investment and the benefits were expected in the future.
- As per the Governor's letter in 2015 to the Ministry of Policy, Planning, Economic affairs, Child youth and cultural affairs, it was mentioned that the investment in Laugfs Gas has diminished but no reasons for the same were stated in the letter.

<sup>231</sup> However, as per the AG report for the year 2012, it is mentioned that the fund had received dividends for the years 2008 to 2012.



### 13.9 Investment in Canwill Holdings Private Limited

- 13.9.1 AG's reports mentioned that the EPF in collaboration with Sri Lanka Insurance Corporation Limited and Litro Gas Lanka Limited had invested LKR 5 billion in a project of CHPL in 2013, which was to list in the share market by the end of 2015. However, the construction of the hotel was not completed by June 2015. Consequently, the listing could not be done.
- 13.9.2 The AG had raised observations regarding the delay in starting the project in the year 2015, 2016 and 2017. It was noted in the AG's reports that there was a delay in starting the operations of the company and failure to abide by the shareholders agreement. Year-wise observations raised by AG and the response thereto are set out in Annexure 64.
- 13.9.3 In response to the observation in the AG report for 2017, it was mentioned that a Deputy Governor<sup>232</sup> of CBSL commented that it had been decided by the Government to suspend the constructions of Canwill Holdings Limited thereby selling it.
- 13.9.4 On investigation of the investment in Canwill, following was noted:
- Investment in Canwill was not recommended by the Middle office
  - Approval of the Investment Committee was not obtained prior to investment
  - Investment was done with the approval of the Monetary Board in 2013.
  - Investment in Canwill has provided a dividend of LKR 5 million in 2017.

### 13.10 Investment in Galadari Hotels Lanka PLC

- 13.10.1 EPF had invested LKR 810.30 million in 23.71 million shares of Galadari Hotels (Lanka) PLC. AG had highlighted in the report for 2011 that the company was already incurring losses and had unfavorable earnings ratios for the years 2008 to 2010.
- 13.10.2 AG's report mentioned that EPF had not received any income from this investment since the date of investment in 2010. EPF had purchased the shares at LKR 34.17; however, the market price per share had declined to LKR 10.50 by the end of December 2015 as stated by the AG in his report for 2015. Accordingly, these investments were impaired in 2015 and 2017, thereby incurring impairment losses of LKR 620.62 million (calculated as per SAP data).
- 13.10.3 Responses provided by CBSL
- The CBSL in the AG report for 2011 was of the view that better results could be expected due to improvements taking place in the tourism sector.
  - In the report for 2012, the CBSL was of the view that the investment would be profitable in the future.
  - The response to the AG's observation mentioned that the investment was made in accordance with the prospects in the hotel sector prevailing in 2010. However, the state of the hotel sector in 2015 was not satisfactory and was not expected to improve in the future. Hence EPF had impaired the investment in 2015.

<sup>232</sup> The name of the deputy governor was not mentioned in the letter provided for review.



- In 2017, as per the EPF response, the hotel sector was expected to perform and generate greater returns after the end of civil war in 2009. It was mentioned that as per the directions from the Monetary Board, Galadari Hotels had returned to profit making in 2017.

Year-wise queries raised by AG and the response thereto are set out in Annexure 65.

- 13.10.4 EPF as at 31 December 2017, has booked a total impairment loss of LKR 620.62 million in the books of accounts. The total investment in Galadari Hotels was LKR 810.30 million. Out of the total investment of LKR 810.30 million, LKR 801.11 million was purchased as a crossings transaction.

### 13.11 Losses incurred on investments in Hotel Companies

- 13.11.1 EPF had invested its funds in various hotel companies. However, either no income or very less income was yielded by majority of such investments. Accordingly, the AG had mentioned observations related to losses, due to investments in hotel companies for 2011 to 2017. Year-wise observations raised by AG and the response thereto are provided in Annexure 66.

**Table 241: Summary of investments as on 31 December 2017:**

Name of the entity	Type of investment	Dividends received (million)	Losses booked in books of accounts (LKR/million)
Galadari Hotels (Lanka) PLC	Listed	-	(620.62)
Ceylon Hotels Corporation PLC	Listed	-	(374.35)
Tal Lanka Hotels PLC	Listed	-	(171.68)
Eden Hotels PLC	Listed	3.41	(77.20)
Canwill Holdings (Pvt) Ltd.	Unlisted	5.00	-
Jetwing Symphony Limited	Unlisted	-	-
Welligama Hotel Properties (Pvt) Ltd	Unlisted	-	-
Light House Hotel	Listed	71.19	0.13
Hotel Reefcomber Limited	Listed	-	1.42
Riverina Hotels	Listed	-	1.62
Stafford Hotels	Listed	0.10	3.39
Tangerine Beach Hotels	Listed	4.66	3.69
Pegasus Hotels of Ceylon PLC	Listed	0.10	3.73
Aitken Spence Hotels	Listed	224.58	29.11
Asian Hotels & Properties PLC	Listed	909.48	76.97

Source: SAP data provided by the EPF department

- 13.11.2 Responses provided by the EPF department stated that the observations related to impairment of investments were raised in 2012 and 2013. However, as per the letter by the Governor to Ministry of Policy, Planning, Economic affairs, Child youth and cultural

affairs, EPF in 2015 mentioned that the investments were not impaired and have subsequently been impaired based on the Sri Lankan accounting standards.

### 13.12 Unspecified impairment losses

13.12.1 Due to continuous losses in the investments of the EPF in various companies, impairment of such investments was required to be done in the financial statements of the EPF. AG had pointed out observations related to impairment of such investments stating issues such as- non-recognition of impairment losses and recognition of impairment losses not in compliance with Sri Lankan Accounting Standards.

13.12.2 Responses provided by the EPF department stated that the observations related to impairment of investments were raised in 2012 and 2013. However, as per the letter by the Governor to Ministry of Policy, Planning, Economic affairs, Child youth and cultural affairs, EPF in 2015 noted that the investments were not impaired and have subsequently been impaired based on the Sri Lankan accounting standards.

13.12.3 In one of the cases for Tea Small Holders factories PLC, the share price had decreased by 56 percent in the market. However as per the response by EPF in 2016, the investment was done under the short-term portfolio and it may not be detrimental as suggested by the AG.

13.12.4 Refer Annexure 67 for details of AG's observations and EPF's responses towards it.

### 13.13 Unidentified company losses

13.13.1 AG had pointed out observations related to losses in various companies spread across investments in different industries for the years 2000 to 2005 and from 2011 to 2016. The summary of responses provided by the EPF, Governor and the Central Bank is as follows against the observations raised by the AG:

- Investments in the companies were made with long term prospects. In view of the Central Bank of Sri Lanka, it is not appropriate to calculate profit or loss on unrealised losses for long term investments.
- In cases where EPF had not received any income, CBSL was of the view that investments were made with a view of reaping long-term benefits and not in the short term.
- In 2014, the EPF mentioned that the investments should be looked at by the AG as a portfolio and not as a particular scrip. Due to prolonged adverse market conditions, the investments have decreased significantly as a whole.
- The EPF was hoping the share market to improve in the future after significant drop in 2015 (5.5 percent) and 2016 (9.7 percent).

13.13.2 Year-wise observations raised by AG and the response thereto are set out in Annexure 68. Following was the corrective action plan devised to overcome the challenges in identifying loss making scrip in the portfolio:

- To realise losses, EPF revised its impairment policy in 2016 to recognize losses in equity portfolio in a timely manner. Accordingly, the EPF has impaired investments at the end of the year 2015, 2016 and 2017.



- EPF had disposed of certain securities in the trading portfolio which were incurring losses or whose value had diminished.

13.13.3 The losses have been identified by the AG based on mark to market at the end of each year. However, KPMG in its report has highlighted loss-making transactions which have either resulted in a realised or impairment loss. The details of loss-making transactions as at 31 December 2017 were as follows:

**Table 242: Loss summary**

Name of the company (As per SAP)	Type of portfolio	Number of transactions above LKR 10 million	Amount of loss as per books of accounts (LKR/million)
Colombo Dockyard	Investment	41	(1,868.73)
Bukit Darah	Investment	104	(1,707.18)
Carson Cumberbatch PLC	Investment	210	(1,625.64)
Brown & Co PLC	Investment	110	(1,304.24)
Ceylon Grain Elevators	Investment	8	(651.91)
Galadari Hotels (Lanka) PLC	Investment	8	(620.62)
Ceylon Hotels Corporation PLC	Investment	3	(377.69)
Ceylon Guardian Investment PLC	Investment	26	(282.45)
Tal Lanka Hotels PLC	Investment	70	(225.10)
The Finance Company	Investment	1	(179.02)
Hayleys Fabric PLC	Investment	2	(138.79)
Eden Hotels Lanka PLC	Investment	25	(130.14)
Raigam Wayamba Saltern Ltd	Investment	20	(64.38)
Mackwood Energy PLC	Investment	1	(16.86)
Dialog Telekom	Investment	280	(5.75)
	<b>Total</b>	<b>909</b>	<b>9,198.50</b>

Source: SAP data provided by the EPF

The observations pertaining to policy compliance and other issues noted for the above-mentioned investments have been highlighted in section for Listed Equity Investments.

#### 13.14 Accounting issues highlighted by the Auditor General

13.14.1 The AG pointed out accounting issues in the financial statements of the EPF for the years 2000, 2004, 2014 and 2015. The following are the major categories of accounting related observations:

- Non-compliance with the Sri Lankan Accounting Standards
- Non-disclosure of information in financial statements.
- Items not brought to account
- Provisions not made in the books of accounts



**Table 243: Gist of observations**

Type of observation	Number of observations	Responses made available by EPF for review
Non-compliance with the Sri Lankan Accounting Standards	2	1
Non-disclosure of information in financial statements	3	2
Items not brought to account	1	0
Provisions not made in the books of accounts	1	0
<b>Total</b>	<b>7</b>	<b>3</b>

*Source: Auditor General reports and KPMG workings*

- 13.14.2 EPF's response to the AG's observations are provided below and year-wise observations raised by AG and the response thereto are set out in Annexure 69.
- 13.14.3 The method of calculation of capital gain on sale of share was changed from highest price method (highest price of purchase was considered to be the cost) to Weighted average cost (WAC) in 2004. As a corrective action, the figures for 2003 were reinstated based on the WAC. The nature and objective of the reserves were not disclosed as a note in the financial statements for 2014. As a corrective action plan, the EPF decided to disclose the nature and objectives in the financial statements and the same was done in the year 2015.
- 13.14.4 No responses received on certain observations raised by the Auditor General. The summary of the observations for which no responses were received are as follows:
- The AG noted that broker charges pertaining to share market were not brought to account.
  - It was highlighted by the AG that a prior period item pertaining to income was included in the year under review. This had resulted in income overstatement.

**13.15 Process gaps or operational issues in the Investment process**

- 13.15.1 Besides the observations as categorized above, the AG had pointed out certain other observations pertaining to issues with regards to Investment process.

**Table 244: Gist of observations**

Type of observation	Number of observations	Responses made available by EPF for review
Non- Compliance with Laws, rules, Regulations, Management decisions	7	1
Lack of Evidence for Audit	2	1
Systems and Controls	5	3
Operating inefficiencies	1	1
<b>Total</b>	<b>15</b>	<b>6</b>

*Source: Auditor General reports and KPMG workings*

- 13.15.2 EPF's response to the AG's observations are provided below and Year-wise observations raised by AG and the response thereto are set out in Annexure 70.
- The AG had identified deficiencies in the systems and controls for investment process. The EPF in its response has mentioned that generally accepted process



was followed and remedial action could be taken in case the weaknesses were provided by the AG in writing and with details.

**13.15.3** No responses received on certain observations raised by the Auditor General. The summary of the observations for which no responses were received are as follows:

- For certain years the Auditor General's report had not been tabled in the Parliament with the accounts and details prepared by the Monetary Board.
- AG had noted instances in which investments had not been made in a manner that the Fund received maximum benefits. However, no details of such investments had been provided by the AG in its report.

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## 14 Recommendations

**Improvement areas and recommendations on existent controls at Employees Provident Fund –**  
Based on our discussions and responses to our questionnaire submitted by EPF in relation to the investment controls

**Table 245: Improvement areas and recommendations to EPF**

Sr.No.	Area	Control deficiency	Potential risk	Recommendation
<b>Investment and Dealing controls</b>				
1.	EPF Dealing	No segregation of dealing for Equity and Debt	<ul style="list-style-type: none"> <li>Confidentiality of price-sensitive information being compromised</li> </ul>	Dealing rooms should be segregated for Debt dealing and equity dealing. Both rooms should be physically distinct from each other in a manner to avoid passage of any information between employees responsible for both – Debt as well as equity dealing
2.	CCTV camera, access logs and voice recording	<p>No monitoring of the CCTV and voice recording functionality by EPF team</p> <p>No review of access logs conducted</p>	<ul style="list-style-type: none"> <li>In case of failure of CCTV or footage not getting captured due to technical issues, recording will not be available as evidence</li> </ul>	<p>CCTV recording should be monitored on a regular basis by designated personnel from EPF.</p> <p>Access to audio/video recording should be provided to individuals, who should monitor these aspects on a regular basis</p>
3.	Mobile phone usage	Dealing staff currently has access to mobile phones during dealing hours <sup>233</sup>	<ul style="list-style-type: none"> <li>Confidentiality of price-sensitive information being compromised</li> </ul>	Mobile phones should not be carried inside the dealing area and should be deposited in lockers outside the dealing area. A record should be maintained for deposit/access to mobile phones. Dealers should periodically (Quarterly or monthly) declare the details of mobile phone which they are using to the

<sup>233</sup> In the Code of Conduct and Internal Controls (2018), it has been stipulated that "The Superintendent of EPF shall provide necessary arrangements to the dealers and other officers of the FO for keeping their mobile phones in a secure place outside the FO"







Sr.No.	Area	Control deficiency	Potential risk	Recommendation
				Superintendent or Internal Risk Management Division (IRMD)
4.	Empanelment of brokers	Currently, there is no mechanism for empanelment of brokers and evaluation of their performance on a regular basis	<ul style="list-style-type: none"> <li>EPF will do business with brokers having low reputation and negative track record</li> <li>Particular brokers can be favoured over others despite gaps in performance.</li> </ul>	Specific criteria should be laid down for eligibility of brokers. Performance of brokers should be reviewed on an annual basis and brokers can be empanelled /dis-empanelled based on their performance and credentials only
5.	Inclusion of stocks under ASL	There is no universe of stocks specified for making investments. This can result in investment of public funds in sub-optimal stocks	<ul style="list-style-type: none"> <li>Such sub-optimal investments may result in losses to EPF</li> </ul>	Specific parameters need to be defined in respect of – <ol style="list-style-type: none"> <li>Governance standards of the company</li> <li>Quality of management</li> <li>Minimum net worth/profit requirements</li> <li>Track record of profits</li> <li>Market capitalization and size of the company</li> </ol>
5.	Whistle blower policy	There is no distinct Whistle blower policy or hotline at EPF	<ul style="list-style-type: none"> <li>Fraud/malpractices/irregularities, if any, existent at EPF may not come to light</li> </ul>	Since EPF funds are public contributions, it is advisable for EPF to establish a separate Whistle blower mechanism to address concerns of it's members/staff members and other stakeholders
7.	Internet policy	There is no policy in relation to internet access to Dealing room/FO employees	<ul style="list-style-type: none"> <li>Sensitive information may be leaked out of EPF dealing room</li> </ul>	There should be clear cut policy for access to websites in the dealing area. Only websites that are required for business purpose need to be made accessible





Sr.No.	Area	Control deficiency	Potential risk	Recommendation
8.	Hard copies of documents	EPF dealing staff can freely carry hard copies of documents outside dealing room or outside CBSL premises	<ul style="list-style-type: none"> <li>Sensitive information may be leaked out of EPF dealing room</li> </ul>	Carrying hard copies of documents outside dealing room and CBSL premises should be prohibited.
9.	Print logs	Print logging is not done at EPF Investments function	<ul style="list-style-type: none"> <li>Prints of confidential documents may be carried out of EPF premises</li> </ul>	Print-logging application should be installed and monitored on a regular basis
10.	Alerts mechanism	Currently there is no alerts mechanism to highlight breaches of trading limits, portfolio limits and holding limits for securities	<ul style="list-style-type: none"> <li>This will result in policy deviations</li> </ul>	Mechanism for system generated alerts should be incorporated for immediate attention of management to avoid policy level breaches
11.	Broker turnover	No explicit policy guidelines exist to limit the amount of individual broker turnover and brokerage amount	<ul style="list-style-type: none"> <li>There is a potential risk of dealers favouring particular brokers and receiving kickbacks</li> </ul>	Broker turnover needs to be monitored on a regular basis and maximum limits are required to be defined in terms of quarterly / annual broker turnover and brokerage amount
<b>System controls</b>				
12.	I.T. assets configuration	There was no mechanism in EPF/CBSL to track or locate the I.T. assets used by employees	<ul style="list-style-type: none"> <li>Inefficient utilization and lack of identification of I.T. assets</li> </ul>	Configuration management database (CMDB) should be immediately installed at CBSL. This database contains all relevant information about the hardware and software components used in an organization's IT services and the relationships between those components.
13.	Bring Your own device (B.Y.O.D)	There is no explicit mention in respect of usage of mobile phones	<ul style="list-style-type: none"> <li>There is no track of mobile devices used for official/personal purpose and the availability of official</li> </ul>	CBSL should consider implementing the Mobile Device Management (MDM) solution that will have the necessary controls in place





Sr.No.	Area	Control deficiency	Potential risk	Recommendation
		in the Information Technology policy	information on such mobile devices	and to an extent bank can have control on the device and its associated information
14.	Email Data management	Department of Information Technology (D.I.T) did not maintain any data centrally before 2017	<ul style="list-style-type: none"> <li>Lack of data back-up</li> </ul>	The DIT at CBSL should preserve all the data backups available in tape media
15.	Endpoint Protection	EPF/CBSL has not implemented end-point controls to prevent data leakage	<ul style="list-style-type: none"> <li>A lot of sensitive information is maintained at CBSL and EPF, which might be compromised in absence of such controls</li> <li>Usage of personal email ID for official communication</li> </ul>	Management should consider implementing controls such as: <ul style="list-style-type: none"> <li>Data leakage prevention controls on the endpoint including mobile devices</li> <li>Endpoint media encryption Bit-locker</li> </ul>
<b>Other areas</b>				
16.	Voting by EPF in investee companies	There is no database to record voting done by EPF representatives in AGM/EGM. No status update report is maintained for voting done by employees	<ul style="list-style-type: none"> <li>Lack of audit trail in respect of voting</li> <li>No sign-offs from employees in relation to the voting done by EPF employees</li> </ul>	The following databases should be maintained: <ol style="list-style-type: none"> <li>List of AGMs/EGMs of all investee companies</li> <li>Details of all relevant details in respect of voting done by EPF in investee companies – Company name, Name of representative, details of resolution, type of meeting, date of meeting, date of receipt of proxy form, names of officials, relevant approvals responsible, details of voting done by EPF</li> <li>A status update report should be maintained and sign-off should be</li> </ol>







Sr.No.	Area	Control deficiency	Potential risk	Recommendation
				maintained on such document from concerned officials
17.	Auditor General observations	No Action Taken Report (ATR) is generated in relation to the observations of Auditor General	<ul style="list-style-type: none"> <li>There is no audit trail to record the response of EPF to Auditor General's observations</li> </ul>	There should be a mechanism to maintain Action Taken Reports on Auditor General observations to record the responses to Auditor General's queries and observations. Such reports should also clearly state the respective officials who are responsible for resolution of such queries/observations
18	Gift policy	Absence of a Gift and entertainment policy	<ul style="list-style-type: none"> <li>Third parties attempting to influence officials</li> </ul>	Gift and entertainment policy could be formulated which defines the permissions to EPF / CBSL employees. It may also require employees to declare gifts and entertainment offered to them but declined by them.
19	Statement of economic interest	Absence of monitoring mechanism	<ul style="list-style-type: none"> <li>Incorrect declarations submitted by the employees</li> </ul>	Annual audit of employee trading to be conducted basis information submitted by the employee in annual declarations. Evidence of no-trading also needs to be established so that the risk of incorrect declaration is minimized. Requirement of adherence to such audits, access to the personal information may be defined as a requisite in the employment contracts.
20	Beneficial ownership of accounts	Absence of country level database to obtain company records and beneficial ownership structures	<ul style="list-style-type: none"> <li>Manual checks to obtain company details from ROC are time consuming</li> <li>Limited capability to reverse checks and looking through layers to</li> </ul>	CBSL may recommend to the government to consider set up of a common directory of companies (e.g. Company House in the UK, Ministry of Corporate Affairs in India, Companies Registry in Hong Kong and Accounting and Corporate Regulatory Authority ("ACRA") in Singapore)





Sr.No.	Area	Control deficiency	Potential risk	Recommendation
21	Case management system	Potentially dilution of audit trail to preserve approval notes and supporting information for FMD/IC/MB decisions	<ul style="list-style-type: none"> <li>Manual controls to preserve the documentary evidence</li> <li>Risk of loss of evidence</li> </ul>	CBSL may evaluate implementing a case management system in SAP as a module to digitise the document management system and for appropriate archival of records
22	Disciplinary action against employee breaches	Currently, there does not exist any mechanism to identify policy violations and deviations	<ul style="list-style-type: none"> <li>No deterrence mechanism to control breaches and violations</li> </ul>	Introduction and implementation of suitable actions against violations/deviations of policies and limits
23	Code of Conduct/ Terms of Reference (TOR) for IC members	There is no mechanism to monitor conduct of IC members and the duties performed by them	<ul style="list-style-type: none"> <li>There may be potential conflicts of interests and breaches of duty</li> </ul>	Introduction of TOR and code of conduct for the members/role of IC
24	Skillsets of FMD staff	FMD staff is not adequately skilled to carry functions in an efficient and effective manner due to lack of adequate training and skills	<ul style="list-style-type: none"> <li>Sub-optimal investment decisions and inefficiencies may result in the FMD function</li> </ul>	There should be specific requirements in relation to the skill sets of FMD employees (qualifications, training, experience, transfers of staff etc.)

