

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Communique

1. In March 2016, ICAC started an investigation on its own initiative into the granting of a loan of 1.1 Million Euros by the State Bank of Mauritius (SBM) to Hon. Seetannah Lutchmeenaraidoo, the then Minister of Finance and Economic Development following the publication of an article in Le Dimanche/L'Hebdo of the 13 March 2016.
2. On 20 April 2016, ICAC submitted an Investigation Report to this office and on the 28 April 2016, this Office wrote to ICAC to request for specific further enquiries to be carried out with the Bank of Mauritius and with the SBM.
3. On the 07 November 2016, ICAC wrote to this Office and suggested that following the further investigation carried out, there is insufficient evidence against Mr Lutchmeenaraidoo. ICAC suggested that the matter be referred to the Bank of Mauritius for any regulatory action against SBM and to the Commissioner of Police for any possible offences under the Declaration of Assets Act.
4. Because of the secrecy attached to banking matters under Banking Act, sensitive banking information which have been taken into account when advising this file have been withheld from this communique.
5. The investigation has revealed that on 01 July 2015, Mr Lutchmeenaraidoo applied through letter to the SBM Bank (Mauritius) Ltd for a loan of Euro 1.1 million. The loan was, in fact, granted on 11 September 2015 upon a series of terms and conditions.
6. The rate of interest for the loan was a revised figure from the rate originally quoted by the SBM. The residence of Mr Lutchmeenaraidoo was provided as a Fixed Charge which was to be registered at the discretion of the bank. The Fixed Charge was registered and inscribed on the property of Mr Lutchmeenaraidoo on 05 August 2016, after the investigation had started.

7. The investigation has revealed that Mr Lutchmeenaraidoo has been a client of SBM for a long time. He enjoys private banking facilities and has benefitted from similar loan facilities in the past and at a time when he was not a Minister.
8. The investigation has revealed although Mr Lutchmeenaraidoo intimated to SBM's CEO that he would invest in gold, the loan money was, in fact, used for foreign currency dealings and he reaped benefits from his foreign currency dealings.
9. The SBM is a government company with a Board of Directors and a CEO responsible for the management of the bank. It falls under the responsibility of the Minister of Finance. According to the Bank of Mauritius, commercial banks fix their own rates of interest for loans in Euros.
10. According to the Head of the Financial Market Division of the SBM, the following factors are taken into account before an interest rate is reached for a foreign currency loan: (1) LIBOR (i.e. London Interbank Offer Rate) rate for that currency, (2) funds availability with the bank, (3) cost of funds, (4) demand on the market for that particular currency loan, (5) competition from competing banks. The rate of interest of the loan granted to Mr Lutchmeenaraidoo was profitable to the SBM.
11. The loan to Mr Lutchmeenaraidoo was not only recommended by the CEO of the SBM but was also approved by the Chairperson of the Board Credit Committee of the Bank. The approval was ratified by the Board Credit Committee.
12. Furthermore, according to the CEO of SBM, the loan advanced to Mr Lutchmeenaraidoo was sanctioned on commercial terms and conditions and the SBM has not been prejudiced by the transaction.
13. This Office accordingly considers that the investigation has disclosed insufficient evidence that Mr Lutchmeenaraidoo has made an improper use of his office to obtain the loan or that he obtained a gratification. The evidence is insufficient to meet the test of reasonable prospect of securing a conviction under the Code for Prosecutors to establish an offence under section 7 of the Prevention of Corruption Act.

14. The office has also considered whether there is an offence of Influencing public official disclosed under section 9 of the POCA and has found insufficient evidence with respect to same. The CEO of SBM as well as the officers of the SBM at no point refer to any pressure of the type contemplated under section 9 of the POCA being exercised on them to grant a loan to Mr Lutchmeenaraidoo.
15. This Office has also considered possible infringements of the Declaration of Assets Act and has found that it is not applicable to the facts of the present case.
16. For these reasons, the Office has advised No Further Action in the present matter. The Office has however decided to refer the matter to the Bank of Mauritius in line with the suggestion of ICAC with a view to ascertain whether there has been any breach by the SBM of the Bank of Mauritius Guidelines in relation to its banking procedures.

Office of the Director of Public Prosecutions

24 March 2017