

**TO: MR KUBEN NAIDOO**

**THE REGISTRAR OF BANKS**

**SOUTH AFRICAN RESERVE BANK**

**370 HELEN JOSEPH STREET**

**PRETORIA**

**0002**

**AND TO: MR ELIJAH MAZIBUKO**

**HEAD OF FINANCIAL SURVEILLANCE**

**SOUTH AFRICAN RESERVE BANK**

**370 HELEN JOSEPH STREET**

**PRETORIA**

**0002**

**AND TO: FINANCIAL INTELLIGENCE CENTRE**

**DOORKLOOF 391-JR**

**CENTURION**

**0157**

13 July 2017

Dear Sirs / Madams

**RE: THE MISCONDUCT OF THE BANK OF BARODA AND THE STATE BANK OF INDIA**

1. We refer to the above.
2. The Organisation Undoing Tax Abuse (“OUTA”) is a proudly South African non-profit civil action organisation, comprising of and supported by people who are passionate about improving the prosperity of our nation. OUTA was established to challenge the abuse of authority with regards to taxpayers’ money in South Africa.
3. In recent months, South Africa has been rocked by the Gupta emails and documents (“Gupta emails”) which were retrieved from the server of SAHARA Computers Pty (Ltd). These Gupta emails have substantiated most of the allegations pertaining to state capture and have unveiled further evidence of misconduct by the Gupta family and many high-ranking government officials. OUTA received a copy of these emails from an unknown source, established the authenticity of such and released an extensive report on State Capture titled *“No Room To Hide – A President Caught in the Act.”*
4. You should be aware that after several suspicious transactions were revealed, various banking institutions in South Africa refused to do business with the Gupta family.
5. The Gupta emails unveiled further disturbing conduct on the part of the Bank of Baroda and the State Bank of India. These banks hold many of the accounts belonging to the Gupta family members and/or employees and businesses in which the Gupta family has an interest (“Gupta

- businesses”).
6. After a thorough investigation of the information obtained from the Gupta emails, it was revealed that the banks have provided many of the Gupta businesses with bonds which far exceed the value of the property in respect of which they were granted. These bonds were often registered years after the purchase date of the property.
  7. Please find attached hereto:
    - a. A spreadsheet containing the companies’ name, registration numbers, physical addresses of the properties, the properties descriptions, the title deed numbers, the dates of purchase, the registration dates, the purchase prices, the bonds’ details, the Banks’ details and the current estimated values;
    - b. Deed searches for the properties mentioned in the spreadsheet; and
    - c. Details of the companies that include but are not limited to the director and shareholding details.
  8. As an accounting authority, a Bank has a duty to satisfactorily and in the best interest of the public carry on the business of a bank and to combat activities which have or are likely to have the effect of concealing or disguising the nature, source, location, disposition or movement of the proceeds of unlawful activities or any interest which anyone has in such proceeds i.e. money laundering.
  9. It is respectfully submitted that if you examine the attached documentation, you will agree that the loans were granted against inadequate security. The act of granting loans against vastly inadequate security is contrary to the principles of good governance and the standards of practice that banks must adhere to.

10. With the above in mind, OUTA recommend that as the Registrar of Banks, you consider:

- a. Issuing a directive in terms of section 6 of the Act that the Banks cease all business with the Gupta businesses.
- b. Appointing an inspector in terms of section 45A of the Financial Intelligence Centre Act 38 of 2001 ("FICA"), to carry out inspections in terms of Section 45B of FICA;
- c. Imposing a financial penalty of R 10 million in respect of the natural persons and R 50 million in respect of the legal *personas* in terms of section 45C of FICA for possible non-compliance with *inter alia* FICA and the Banks Act ;
- d. Lodging an application with a competent court for an order cancelling or suspending the registration of the banks, in terms of section 25 of the Act. This application could be based on the following grounds:
  - i. Section 25(4)(b), where the bank does not carry on satisfactorily the business of a bank;
  - ii. That it is just, equitable and in the best interests of the public to do so.
- e. Any other appropriate action.

11. We request that the FIC takes note of the above and acts in the furtherance of its principle objective set out in Section 3 of FICA by assisting in the identification of:

- a. any proceeds of unlawful activities;
- b. any money laundering activities; and/or
- c. the financing of terrorist and related activities.

12. We trust you find the above in order and hope to hear from you by no later than the 30<sup>th</sup> of July 2017.

13. Should you have any further questions, please direct them to David Harty at david.harty@outa.co.za.

Yours Sincerely,

Stefanie Fick

OUTA: Head of Legal

[stefanie.fick@outa.co.za](mailto:stefanie.fick@outa.co.za)

Tel: 087 170 0639

**Acknowledgement of receipt:**

Received by: \_\_\_\_\_

Designation: \_\_\_\_\_

Contact details: \_\_\_\_\_

Date: \_\_\_\_\_

**TO: MR KUBEN NAIDOO**

**THE REGISTRAR OF BANKS**

**SOUTH AFRICAN RESERVE BANK**

**370 HELEN JOSEPH STREET**

**PRETORIA**

**0002**

**AND TO: MR ELIJAH MAZIBUKO**

**HEAD OF FINANCIAL SURVEILLANCE**

**SOUTH AFRICAN RESERVE BANK**

**370 HELEN JOSEPH STREET**

**PRETORIA**

**0002**

**AND TO: FINANCIAL INTELLIGENCE CENTRE**

**DOORNKLOOF 391-JR**

**CENTURION**

**0157**