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THE CL FINANCIAL DEBACLE — FOUR YEARS LATER

This month marks four years since the “debacle” of the failure of CL Financial on 30th January 2009. On that momentous day the Government of Trinidad and Tobago (GORTT) reached an agreement with CL Financial Limited for the provision of a package of financial support for the group’s financial services companies. The collapse of this financial giant has had many ramifications on the financial sectors of Caribbean economies with the exception of Jamaica and Haiti. Some countries have reached a resolution while others are still battling in courts. Only three countries made notable resolution of their CLICO operations during 2009. In Suriname, CLICO’s operations were sold to Self Reliance Insurance in July 2009; in Belize, the life and health insurance portfolios were sold to RF&G Life Insurance Company in August 2009; and in the Cayman Islands its operations were officially terminated in December 2009.

It has been reported in numerous articles and speeches that the financial difficulties faced by the CL Financial Group resulted from excessive related-party transactions, an aggressive high interest rate mobilization strategy with corresponding high risk investments, high leveraging of the Group’s assets and weak corporate governance. This resulted in CLICO Investment Bank, and to a lesser extent CLICO Trinidad, experiencing an unusually high level of withdrawal requests which put a strain on their available liquid resources. The signing of the MOU between the GORTT and CL Financial initiated an almost instantaneous examination of CL Financial operations by each Caribbean government. Within the week that proceeded we saw countries – The Bahamas, Belize, Barbados, Guyana and ECCU - all issuing statements on the status of CL Financial’s CLICO operations in their respective countries.

Prior to its collapse, CL Financial was highly regarded as a successful financial conglomerate and as a prime example of financial and regional integration of companies within the region. However, it is that well-established network of cross-linkages in the Caribbean that has caused its failure to negatively impact financial systems in almost every Caribbean country in which it operated. Governments were forced to intervene to prevent substantial losses for the depositors, policy holders and creditors. In The Bahamas, Barbados, Belize, Cayman Islands, ECCU and Suriname governments announced a “cease and desist” order on the company with regards to issuing new insurance and payment on claims, while the company was placed under judicial management. In most cases the judicial management committees sought to recover as much funds as possible by trying to sell the company assets and recover claims from debtors. However, this process was plagued with problems; in particular, some assets

were difficult to sell and the high level of inter-company transfers resulted in the debtors of the company being some of the company affiliates.

Many concerns arose from the CL Financial failure, issues with regards to handling of the bailout and government intervention, the implications on the common individual and with the way forward. It is evident that the way forward seems to encompass governments’ active role in securing financing to pay policy holders and finding suitable buyers for the various companies that will promote the stability of the country’s financial system. The intervention of governments to assist in the bailout of the troubled institution was motivated by the need to protect the financial system of their country. However, the cost incurred for saving their financial system has been proven to be very burdensome, since most Caribbean economies have been registering fiscal deficits for the past five or more years. The exact cost to date of the CL Financial bailout for governments is not exact (Table 1), but estimates suggest it has taken a substantive toll on governments’ finances. Current economic conditions – low tourist arrivals, high commodity prices, inflation, debt levels - have not encouraged increased levels in economic activity in most Caribbean countries. The Caribbean economies are in a dilemma of having marked increases in public expenditures with little scope for revenue increase. Governments chose to intervene despite their fiscal constraints because the consequences of not intervening would have been more detrimental to the affected economies, with one key reason being to maintain the confidence in the financial sector as some individuals became skeptical about saving.

A review of the events as they unfolded from January 2009 to now seem to have met, to a certain degree, the desired outcome of the CARICOM Finance Ministers and Financial Services regulators. In May 2009 they met to evaluate the problems caused by CLICO and BAICO and they called for a regional solution that will (1) protect the policyholders and shareholders, (2) ensure that the companies remained as going concerns and (3) prevent a systemic crisis. However, we have yet to see measures be implemented to prevent such an event from occurring again – the key one being regional regulation of financial institutions.

The Caribbean Trade and Investment Report 2010 expressed the opinion that, “*The issue with the financial conglomerate, CL Financial was not only that it was “too big too fail” but also that its operations were too complex to understand. Regulators are always playing catch-up in the area of financial innovation.*” This was reiterated in December 2012 by the former governor of the Central Bank of Trini-

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dad and Tobago (CBTT) Dr. Ewart Williams, in the commission of enquiry into the failure of CLICO. He said that the regulators at the CBTT were not able to prevent the collapse of CLICO because the Insurance Act that governs insurance companies in Trinidad and Tobago was “archaic”, and there are no sanctions for failures in corporate governance for private companies. The company was said to be meeting the legal requirements of the Insurance Act, thereby forcing the CBTT to employ moral suasion on issues of corporate governance, which were not successful. The sophisticated network of companies that comprised CL Financial was also an issue, since the legislation that existed were not adequate regulations for financial conglomerates of this type, where there are informal relationships and interlocking directorships that can be manipulated to avoid responsibility of fiduciary obligations and effective corporate governance practices. Clearly there is need for an updated Insurance Act, one that not only focuses on risk management but also on the corporate governance, both locally and regionally. To date the following steps have been taken on a regional level to ensure that the CLICO debacle is not repeated in the Caribbean:

- March 2009 - College of Regulators created by CARICOM to assess the challenges created by the global financial crisis and the CLICO debacle, monitor and counteract the problems generated and provide proposals to integrate and improve financial regulation in the sub-region.
- May 2001 - CARICOM Central Bank Governors agreed on the arrangements to produce a Caribbean Financial Stability Report under a project financed in part by the Inter-American Development Bank and coordinated by the Caribbean Centre for Money and Finance.

There are lessons that should be learnt and not forgotten by all individuals from this debacle, but to prevent this from occurring again there needs to be a stronger and more aggressive financial regulation reform process, one that ensures accountability of company directors and ensures that financial regulators are aptly trained and enabled by law to deal with innovative and sophisticated financial institutions.

Table 1: CL Financial Operations in the Caribbean – Cost and Actions taken

The Bahamas	<p>Feb 2009: The Registrar of Insurance Companies in The Bahamas appointed a liquidator for CLICO Bahamas Limited (CLICO).</p> <p>March 2012: A settlement of US\$1 million was made with the US Internal Revenue Service. This settlement results in a significant reduction of the IRS’ claim thereby freeing up excess cash that is needed desperately.</p> <p>May 2012: The sale of 138.3 acres of the Wellington Preserve project was made for US\$13.384 million; After expenses related to the property’s administration and Homeowners Association were covered it resulted in a US\$10 million being recovered. This is the first recovery of funds for CLICO (Bahamas) Limited. 283 acres remain to be sold.</p>
Barbados	<p>Feb 2009: The Central Bank of Barbados deposited US\$5 million into CLICO’s mortgage subsidiary and provided access to a special credit window in the event additional liquidity was needed.</p> <p>May 2009: CLICO Holdings Ltd. signed an MOU with the Barbados government for the establishment of an Oversight Committee to manage the sale of the regulated entities.</p> <p>June 2010: CLICO Mortgage Finance Company was acquired by the Barbados Public Workers Cooperative Credit Union Ltd. The CLICO International Life and CLICO General Insurance companies were placed under Judicial Management.</p> <p>October 2012: The Judicial Manager of CLICO International Life Insurance Limited has received sanction from the High Court of Barbados to pursue a restructuring plan for the company. The proposed plan will result in a write down in value of all policyholders’ liabilities (traditional policies and EFPAs) to match the estimated value of the company’s net available assets. The restructured policyholder liabilities and all the assets of CIL will be transferred to a new company which will be separately governed and managed.</p>
ECCU	<p>April 2009: A MOU was signed between the governments of the ECCU, Central Bank of Barbados and Trinidad and Tobago to establish a Liquidity Support Fund of US\$80million:</p> <p>Barbados – US\$5 million ECCU governments – US\$10 million Trinidad and Tobago – US\$50 million via the CARICOM Petroleum Fund Regional and International Organisation – US\$15 million</p> <p>This was to be used to provide financial support to the Eastern Caribbean territories that are at risk following the meltdown of CLICO and BIACO.</p> <p>November 2012: the ECCU announced that they have sourced US\$100 million, of which US\$24 million came from the CARICOM Petroleum Facility, US\$36 million from the Government of Trinidad and Tobago and US\$40 million from the Caribbean Development Bank. This will be used to pay off policy holders.</p>

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Table 1 Cont'd: CL Financial Operations in the Caribbean - Cost and Actions taken

Guyana	<p>February 2009: CLICO (Guyana) is placed under Judicial Management.</p> <p>September 2010: The government has offered guarantees to policyholders (excluding life insurance products) up to G\$30 million.</p> <ul style="list-style-type: none"> • Policyholders with investments in the company less than GY\$30 million (US\$145,000) as of February 2009 will be repaid in full. • The Guyana government will make available GY\$3.6 billion to finance the payout of which about GY\$2.7 billion will be used to pay off in full all holders of investment annuity policies and other insurance liabilities not in dispute, subject to a maximum limit of GY\$30 million per policyholder. • A total of 4,366 holders of executive flexible premium annuities and other undisputed claims against the company will be paid in full. • The 39 large policyholders of the company will then be given support and a remaining GY\$900 million will be utilised to pay these policyholders up to a maximum of GY\$30 million each, with priority given to institutional policyholders. • With most of the liabilities remaining in government agencies such as the National Insurance Scheme (NIS), the Guyana Forestry Commission (GFC), Dependents' Pension Fund and Guyoil, the government will also have to ensure that their interests are protected.
Trinidad & Tobago	<p>January 2009: The CL Financial Group signed an MOU with the GORTT to provide financial support for the group's financial services.</p> <p>April 2009: GORTT announced it would be spending approximately TT\$5 billion during the following two years in the bailout of CLICO and BIACO.</p> <p>November 2010: The Government established a Commission of Enquiry into the failure of CL Financial Limited, Colonial Life Insurance Company (Trinidad) Limited, CLICO Investment Bank Limited, British American Insurance Company (Trinidad) Limited, Caribbean Money Market Brokers Limited</p> <p>June 2011: The first sitting of the Commission took place.</p> <p>November 2012: It was reported that between January 2009 and now that an estimated TT\$20 billion was spent by the GORTT in the bailout. The majority of the TT\$20 billion was spent on paying back policyholders of CLICO and British American's Executive Flexible Premium Annuity (EFPA).</p> <p>November 2012: As the extended Shareholders Agreement comes to an end on December 12, 2012, the Minister of Finance has identified three actions to be implemented in 2013, which the Government will take to draw a conclusion to the bailout:</p> <ul style="list-style-type: none"> • The first was the establishment of a TT\$1 billion CLICO Investment Fund (CLF) which will begin trading in January 2013. • The establishment of a new insurance company. The insurance policies of CLICO and British American Insurance Company will be transferred to the new, yet unnamed company which will be set up this month to begin the transition. • 3. A claim has to be made to CLF for money spent by the Government. Unless CLF can meet the claim, the Government has room to negotiate an extension to the memorandum agreement.

Source: Compiled from the review of all documents and News Articles on the CL Financial collapse since Jan 2009 to present.

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REGIONAL NEWS SUMMARY

CL FINANCIAL

- The shareholder agreement between government and CL Financial has been extended by six months to allow for financial transactions and legal matters to be completed as well as a restructuring plan. (Newsd 1 Dec)
- Former CL Financial executives Lawrence Duprey and L Andre Monteil have to testify at the Colman Inquiry, after the inquiry chairman Sir Anthony Colman ruled that both Duprey and Monteil would be able to rely on the privilege against self-incrimination (Newsd 4 Dec)
- Lawyers acting on behalf of former CL Financial executive chairman Lawrence Duprey have argued he played no direct role in the day-to-day details of the CLF empire, Duprey once told regulators that he deserved in excess of \$700 million in, "consultancy fees", because of all the different things he had done at CLF. (Newsd 8 Dec)
- The governments of the ECCU have commenced Phase I of the Policyholders Relief Programme for owners of traditional BAI-CO annuity insurance policies and these policyholders have started to receive a payment equivalent to the amount of their policy balance as at August 1, 2009, plus the amount of any premiums that they have paid since that date (Carib360 13 Dec)
- About 50% of the holders of short-term investment products issued by Clico and British American (Trinidad) who were eligible to convert their 11 to 20-year zero-coupon bonds into units in the Clico Investment Fund (CIF) did so by the deadline (TG 21 Dec)

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- Guyana is pushing for financial and technical support from developed countries for its transition to mercury-free mining. The exportation and use of mercury have been banned from 2013. (GuyTim 29 Nov)
- The World Bank said worldwide remittances are expected to rise by 6.5%, but flows to the LAC region will likely see a more modest growth of 2.9% to an estimated US\$64 billion. Transfers to Jamaica are predicted at US\$2.172 million. (JG 30 Nov)
- Finance Minister Larry Howai said Government's plans for the development of the local financial institution support services industry will add 3,000 high skill jobs to the economy over the next five years. (Newsd 30 Nov)
- Jamaican food exporters are engaged in a fierce battle against time to meet new US safety standards, which could bar many of them from shipping products to the key overseas market by early next year. (JO 30 Nov)
- The IDB has approved a \$20 million policy-based loan for Suriname to support public expenditure management reforms that aim to diversify the country's economic base, raise growth potential and alleviate poverty. (CNnow 1 Dec)
- The Guyana government says it has approved a 5% across the board increase in salaries and wages for some categories of public servants. (JG 3 Dec)
- RBC has streamlined its processes and removed "non-branch specific transactions" from "the front line" of banks and placed them in a centralised location at its new Operations and Service Delivery Facility (Newsd 3 Dec)
- A delegation of government and state sector officials from the East African state of Tanzania came to Port-of-Spain to conduct a study tour of T&T's energy sector (TG 3 Dec)
- The IMF says Guyana recorded another year of robust growth in 2011 supported by favourable external conditions, rising foreign direct investment and low inflation. It is predicting that economic growth for 2012 will be in the vicinity of 3.7%. (JG 3 Dec)
- Reform of gambling laws in The Bahamas could have a major impact on future stability and revenue growth, according to a top rating agency. (CNnow 4 Dec)
- US Ambassador to Jamaica, Pamela Bridgewater, has urged Jamaica's exporters to take fuller advantage of the provisions and opportunities available under the Caribbean Basin Initiative (CNnow 4 Dec)
- The Bankers Association of T&T has indicated to the Ministry of Finance and the Economy that the Electronic Transfer of Funds Crime Act 2000 "is deficient as it fails to effectively deal with the new forms of fraudulent bankcard activity, inclusive of skimming, identity theft, lost or stolen cards possession of skimming devices and card-not-present transactions (TG 4 Dec)
- First Citizens has been named Bank of the Year 2012 by the renowned Banker Magazine. This represents the third time that the bank has been awarded this title, since its first in 2005 (TG 5 Dec)
- Taiwan is providing EC\$4.8 million to St. Lucia to fund short and long term job programmes on the island. (Carib360 5 Dec)
- Suriname will develop a new framework for its energy sector that will help supply electricity in a more economic, efficient and sustainable manner with a loan of up to \$15 million from the IADB (CNnow 5 Dec)
- The damage caused by Hurricane Sandy and other natural disasters in Jamaica this year has left a J\$1.7-billion repair bill. (JO 5 Dec)
- Haiti's President and Prime Minister presided over a meeting of the Haitian government, the international community and Haitian stakeholder organizations to endorse a new framework for the coordination of external assistance in support of Haiti's development (Caribseek 6 Dec)
- Curaçao's representatives on the supervisory board of directors of the Central Bank of Curaçao and St. Maarten are "not cooperating" to get the bank's business moving, says Finance Minister Roland Tuitt. (Caribseek 6 Dec)
- The European Union is providing BBD\$104 million (40 million euros) in new financial grant assistance to Barbados for Human Resource Development as well as Renewable Energy initiatives. (BAdv 6 Dec)
- Republic Bank Limited has increased its stake in the Barbados subsidiary, the former Barbados National Bank. Reports reveal

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- that 92% of the outstanding shares – or 29 602 283 – were tendered to RBL (BAdv 6 Dec)
- Barbados' own Beach View Hotel has been named the Best Small Hotel in the Caribbean by Virgin Holidays. (BAdv 6 Dec)
 - The IADB says it is providing US\$153 million in loans for the establishment of a new equity investment platform for Latin America and the Caribbean in partnership with the Export-Import Bank of China (Caribseek 7 Dec)
 - "We got it balanced," St Maarten Finance Minister Roland Tuijt said about the draft 2013 budget. He explained that government managed to clear the deficit of NAf. 29 million, and is now in the process of the final review (Caribseek 7 Dec)
 - Haiti plans to improve education for as many as 360,000 children from preschool through grade 9 with a \$50 million grant from the IADB. The grant will fund the building of new schools, tuition-free primary education, student health programmes, and strengthen the Ministry of Education and Professional Training and its executing agencies. (CNnow 7 Dec)
 - State-owned Petrotrin will invest approximately \$7 billion in its Trinidad subsidiary operations between 2013 and 2017, in a bid to boost the country's oil production, Minister of Energy Kevin Ramnarine has said (TE 8 Dec)
 - The Electronic Transactions Act was passed in 2011 and has been partially proclaimed by Legal Notices 1 and 8 of 2012. The main objectives of the act are to facilitate and provide a legal framework for electronic transactions and commerce to give legal effect to electronic signatures, electronic documents and electronic records, and to help establish standard rules regarding the verification and integrity of electronic records. (TG 10 Dec)
 - The three-year-old Barbados-based CARICOM Development Fund has approved EC\$95.58 million (US\$35.4 million) in assistance to member states to date, through its country assistance programmes (CNnow 10 Dec)
 - Attorney-at-law Charles Ramson Jr. has launched his online business in Georgetown. He described it as Guyana's first online marketing service, and said it offers buying and selling services for anything at any time and in any place. (GCO 10 Dec)
 - The 2012 financial year of West India Biscuit Company Ltd has proven to be one of the best in the company's 102-year history. The company's before-tax profit stood at B\$6.3 million, up significantly from \$3.9 million in the previous year. (BN 10 Dec)
 - St Lucia's Prime Minister and Minister of Finance Dr Kenny Anthony has disclosed that just over EC\$25 million was collected from the value added tax in the first month of its introduction. (JG 10 Dec)
 - Jamaica's Tourism Minister, Dr Wykeham McNeill is reporting a 3.2% increase in tourism earnings so far this year, compared with the similar period last year. This is equivalent to about US\$1.7 billion. (JG 10 Dec)
 - Republic Bank Limited has purchased an 8.9% HFC Bank in Ghana. Republic Bank's investment in the shares of HFC is valued at US\$8 million. (Newsd 11 Dec)
 - Google Inc avoided about US\$2 billion in worldwide income taxes in 2011 by shifting US\$9.8 billion in revenues into a Bermuda shell company, almost double the total from three years before, filings show (TE 11 Dec)
 - Jamaica will receive euro 2.25 million (J\$269.2 million) from the European Union aimed at increasing the nation's capacity for product testing and boosting export competitiveness. (JO 12 Dec)
 - T&T Finance Minister Larry Howai has cited evidence that the supply of jobs far outstrips demand. (TE 13 Dec)
 - The St Lucia government has received a stamp of approval from the IMF for its implementation of the controversial new value added tax (TG 14 Dec)
 - Betting, gaming and lottery company Supreme Ventures Limited has reported increased profits for the nine months to September 30, 2012, but said the company continued to face the challenge of increasing bad debts as agents become delinquent in settling outstanding invoices. (JG 14 Dec)
 - Following a review of the Caribbean Development Bank under the S&P's revised criteria for multilateral lending institutions, S&P lowered its long-term foreign currency issuer credit rating on the CDB to 'AA' from 'AA+', while revising the bank's outlook from stable to negative due to "rising embedded risks in CDB's public-sector loan portfolio." (Carib360 14 Dec)
 - International credit ratings agency Moody's downgraded The Bahamas' credit rating from A3 to Baa1, the third downgrade for the country in as many years. (CNnow 15 Dec)
 - THE Barbados Statistical Service's Continuous Household Sample Survey for the third quarter of this year has placed the unemployment rate at 10.8%, down from over 12% in the previous quarter. (BAdv 18 Dec)
 - The IDB says it will be providing a US\$ 30 million loan to Jamaica to help the island's poor by supporting key social protection programmes (GuyTim 18 Dec)
 - Antigua and Barbuda has told the World Trade Organization that it is disappointed that it has not been allowed to raise its ongoing dispute with the US on Internet gambling, despite the matter being before the world body for many years. (Carib360 19 Dec)
 - According to Guyana's Natural Resources and the Environment Minister Robert Persaud, sustainable forest management has resulted in an increase in the value of exports for 2012 when compared to 2011, owing to the export of more value added timber and timber products to traditional and non-traditional markets. (GuyTim 22 Dec)
 - Data from the T&T's Central Statistical Office released by the Central Bank showed that headline inflation slowed to 8.1% last month, from 9.4% in October. (TE 22 Dec)
 - In 2012, Guyana has recorded historical levels of gold production by small and medium scale producers, surpassing 416,000 ounces, resulting from increased interest in the gold mining

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- sector as the high international price for gold remains relatively stable. (GCO 25 Dec)
- Faced with a pending debt payment at the end of March, Caribbean Cement Company has increased the prices by an average 16.5%. (JO 25 Dec)
- T&T's oil company Petrotrin has received positive credit ratings from two major United States-based international credit rating firms, Standard and Poor's and Moody's. (TE 25 Dec)
- The Belize government says it has reached an agreement with its creditors on restructuring the country's US\$544-million foreign debt, also known as the super bond. (JG 26 Dec)
- Dominica will have access to EC\$50 million under the European Union Banana Accompanying Measures during the first quarter of 2013, a senior government official has said. (TE 26 Dec)
- Goddard Enterprises Limited returned to profitability in 2012 after being in a loss position at the end of the 2011 financial year largely due to a number of one-off events. (BN 27 Dec)
- Haiti will invest US\$17.25 million in programmes to promote the development of micro-, small, and medium-size enterprises, and support the launch of leasing services to stimulate economic growth and generate sustainable employment, the IADB has announced. (Carib360 27 Dec)
- Professor Abdulazeem Abozaid, Shariah Manager with the Oman Arab Bank, Muscat, Oman, is scheduled to visit T&T from February 21 to 25, 2013 (TG 28 Dec)
- President of the IADB, Luis Alberto Moreno, says the economies of Latin America and the Caribbean have performed strongly in the face of a challenging external environment, but that the region needs to continue to pursue key reforms to ensure growth in the future (Carib360 28 Dec)
- Guyana has produced 420,000 tonnes of rice so far this year, surpassing the target of 412,000 tonnes, according to official figures released here. Last year production figures were 402,000- tonnes. (Carib360 29 Dec)

FAREWELL DR. BIRCHWOOD



Dr Anthony Birchwood will cease to be a Research Fellow at the Caribbean Centre for Money and Finance on 15 January 2013 in order to take up an appointment as Lecturer in the Department of Economics, St Augustine Campus, The University of the West Indies. He first joined the CCMF (then known as the Caribbean Centre for Monetary Studies) as a Research Assistant in 1997 and was promoted to Junior Research Fellow in 1998 and to Research Fellow in 2002. The Executive Director and staff wish Dr Birchwood every success in this new phase of his professional career.

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