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MAURITIUS

TECHNICAL ASSISTANCE REPORT—STRENGTHENING BANK RESOLUTION AND CRISIS MANAGEMENT FRAMEWORK

June 2018

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TECHNICAL ASSISTANCE REPORT

STRENGTHENING BANK RESOLUTION AND CRISIS MANAGEMENT FRAMEWORK

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GLOSSARY

AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
BA	Banking Act 2004
BCBS	The Basel Committee on Banking Supervision
BoM	Bank of Mauritius (Central Bank)
BOMA	Bank of Mauritius Act 2004 Resolution Unit
CAR	Capital Adequacy Ratio
CMG	Crisis Management Groups
DIS	Deposit Insurance Scheme
D-SIB	Domestically Systemically Important Banks
DTAA	Double Taxation Avoidance Agreement
ELA	Emergency Liquidity Assistance
FinStab	Financial Stability Committee
FSAP	Financial Sector Assessment Program
FSB	Financial Stability Board
FSC	Financial Stability Committee
FX	Foreign Exchange
GBC	Global Business Coalition
GDP	Gross Domestic Product
G-SIB	Globally Systemic Bank
IADI	International Association of Deposit Insurers
IHCs	Intermediate Holding Company
KAs	FSB Key Attributes of Effective Resolution for Financial Institutions
LEG	Legal Department of the IMF
MCB	The Mauritius Commercial Bank Ltd.
MCM	Monetary and Capital Markets Department of the IMF
MoFED	Ministry of Finance and Economic Development
MoU	Memorandum of Understanding
NBDTI	Nonbank deposit-taking institution
NPLs	Nonperforming Loans
P&A	Purchase and Assumption
Rupee	Local Currency
SBM	SBM Bank (Mauritius) Ltd
SME	Small and Medium Enterprises
TA	Technical Assistance
UHC	Ultimate Holding Company

PREFACE

In response to a request from the Bank of Mauritius (BoM), a technical assistance (TA) mission visited Mauritius, during the period February 27–March 6, 2017 to advise the authorities on legal, policy and operational aspects of bank resolution and crisis management.

The mission met with officials of the BoM, the Ministry of Finance and Economic Development (MoFED), the Financial Services Commission (FSC), the Solicitor General, and Representatives of the Mauritius Commercial Bank (MCB), and SBM Bank (Mauritius) Ltd (SBM).

The mission team would like to express its appreciation to Governor Rameswurlall Basant Roi, G.C.S.K.; and to the staff of the BoM for the excellent cooperation and arrangements made to facilitate its work, as well as for the constructive and open discussions held during its stay.

EXECUTIVE SUMMARY

The Mauritius authorities have indicated their interest in formalizing and making the resolution and crisis management framework more efficient. Following extensive TA provided by Fund staff on bank resolution and crisis management, the following priorities were identified:

- Formally designate which administrative bodies are to be responsible for the resolution of individual financial institution failures, as well as for the various forms of financial and mixed groups;
- Refine the existing legal framework for early intervention and triggering resolution;
- Adopt new legal powers to support timely and effective resolution of systemically important banks;
- Issue guidance to banks to routinely prepare recovery plans for dealing with potential shocks to their capital and/or liquidity, and to review and provide feedback to banks on those plans;
- Prepare resolution plans for banks and their groups;
- Identify and remedy impediments to timely and effective resolution of banks;
- Submit Deposit Insurance Scheme (DIS) legislation to parliament;
- Adopt a formal policy framework for emergency liquidity assistance (ELA);
- Specify the role of the Financial Stability Committee (FinStab) in resolution activities; and
- Put in place cross-border cooperation arrangements with relevant foreign supervisory and resolution authorities.

The current legal framework does not provide the supervisor with adequate triggers and powers to mitigate risks at a sufficiently early stage. The law should provide for a broader range of corrective tools that allow the supervisor to restore weak banks to sound financial conditions. Clarifying these triggers and powers would also help reduce arbitrariness and promote transparency (e.g., by providing guidance on a logical progression of increasingly intrusive actions to deal with situations ranging from minor breaches to insolvency).

A new resolution framework is needed to effectively manage failing banks, safeguard financial stability as well as limit moral hazard. The current legal framework for dealing with failing banks is limited to: (i) a bailout of the entities in trouble that does not fully allocate losses to shareholders and creditors; and (ii) the application of a compulsory liquidation that is ill equipped to restructure the failing institution in a way that both preserves value and safeguards financial stability. Notably, the new resolution framework will need to address the scope of institutions covered by the framework, objectives of the framework, resolution powers and tools, and institutional arrangements between the BoM (resolution authority and provider of ELA in its central bank capacity), the DIS (to be created deposit insurance scheme) and the FSC (Financial Stability Committee responsible, among others, for crisis prevention and crisis management). Limits to judicial review could be explored to provide the supervisory and resolution authorities the ability to exercise their legal powers with adequate flexibility and speed, while ensuring due process and legal remedies for injured parties.

Guidance to banks on requirements for preparing and maintaining up-to-date recovery plans, specifying steps they would take to deal with shocks to their capital and/or liquidity, should be prepared and circulated. The substantial body of material in these areas that has been published by the international and regional standard-setting bodies and many national authorities should provide a sufficient basis upon which to develop guidance relevant to the Mauritian context. Once issued, the BoM will need to review plans and provide feedback to banks for improvements. It is anticipated this will be an iterative process over several years until all banks adequately imbed recovery planning into their internal risk-management functions.

Formal plans describing how the resolution authority will manage the failure of individual banks and their groups need to be developed. This will involve identifying those banks' activities related to critical economic and financial functions, that cannot be put into receivership under the compulsory liquidation provisions of the Banking Act and, thus, must be resolved using other, strong legal powers. In the course of developing those plans at the bank and group levels, impediments to timely and effective resolution will be identified, and the resolution authority and supervisors should collaborate to eliminate those impediments to the extent possible.

To strengthen the financial safety net, the DIS Bill needs to be revised, agreed between the MoFED and the BoM, and submitted to the parliament. Revisions to the existing Bill that should be considered include ensuring an efficient cost structure for the DIS, reducing the amount of time to initiate payout to seven days or less, specifying the mechanics of an insured deposit transfer under a purchase and assumption (P&A) transaction, and eliminating the provision that the fund cannot be used for the first five years.

Conditions for providing ELA in the Bank of Mauritius Act (BOMA) have to be revised to limit moral hazard, and a formal policy and operational framework has to be adopted. ELA should be subject to strict conditions to protect the BoM balance sheet and minimize moral hazard. A formal policy and operational ELA framework to clarify the operational aspects and lay out the basic principles governing its provision (circumstances for its use, solvency requirement, eligible collateral, terms, and conditionality) has to be adopted.

The local financial sector's reliance on foreign currency (FX) funding poses challenges for securing FX liquidity in times of stress. Consideration should be given to entering into swap arrangements with foreign central banks, and to incentivize foreign parent banks to provide liquidity to their subsidiaries. Macroeconomic policy should aim at building adequate FX buffers, and prudential and macroprudential measures to reduce potential FX calls.

The mandate of FinStab should be detailed in a charter, and a permanent secretariat be set up to provide the necessary logistical and technical support. The charter should include, notably, provisions for contingency plans, information exchange rules, and a "one-voice" crisis communication plan. The permanent secretariat should, in particular, coordinate the development of contingency plans prepared by relevant staff of the BoM and the FSC.

The BoM should take steps to engage with relevant home and host authorities. As host authority, it should gain an understanding of the implications of the recovery and resolution plans of the two domestic systemically important banks (D-SIBs) that are subsidiaries of globally systemic important banks (G-SIB). The BoM can pursue such engagement by, in part, relying on relevant Financial Stability Board (FSB) guidance. As home authority, the BoM has an obligation to keep relevant host supervisory and resolution authorities apprised of information relevant to recovery and resolution of Mauritian banks' foreign subsidiaries and branches. The effectiveness of the BoM's ability to resolve the failure of a Mauritian bank with overseas operations will depend on good cooperation with relevant host authorities.

Main recommendations of the mission are summarized in Table 1.

Table 1. Mauritius: Summary of Key Recommendations

	Near-term	Paragraph	Institution
Early Intervention			
The supervisory regime for early intervention of a distressed bank should be strengthened. Clarify triggers (quantitative and qualitative) for graduated powers and broaden corrective action tools available to the supervisor.	Near-term	10–12	MoFED, BoM
Bank Resolution Regime			
Designate the BoM as the resolution authority for deposit taking institutions and financial holding companies, as well as for nonregulated related group companies that provide essential services necessary to ensure continuity of banks' critical functions.	Near-term	21 & 22 26–30	MoFED, BoM
Clarify the institutional arrangements for resolution and, in particular, the role of the BoM as resolution authority, with the DIS acting as a paybox plus insurer.		23	
Provide sufficient clarity for resolution triggers reflecting indicators of nonviability but before a bank becomes balance-sheet insolvent, while building in adequate flexibility for qualitative judgement in the interest of financial stability.			
Limit the scope of judicial review to ensure that courts do not vary, suspend, or reverse resolution actions.		31 & 32	
Provide for a full range of resolution powers and techniques, including powers to override shareholders in forcing a merger or recapitalization or other measure, to transfer assets and liabilities to a healthy bank or bridge bank, transfer bad assets to an asset management company, and restructure of liabilities by haircuts or conversions; revoke the bank's license when its return to viability is unlikely, and appoint a receiver for winding up the affairs of the bank.		33 & 34	
Recovery and Resolution Planning			
Issue guidance to banks requiring that they prepare and maintain up-to-date recovery plans.	Near-term	39–40	BoM
Prepare resolution plans for banks engaged in critical economic and financial functions.	Medium-term	41–50	BoM
Deposit Insurance Scheme			
Revise provisions of the DIS Bill, in particular with relation to the appointment criteria for Board members, clarify the mechanisms for P&A transactions, reconcile views with the MoFED and resubmit the Bill for approval.	Near-term	51–53	BoM, MoFED

Table 1. Mauritius: Summary of Key Recommendations (concluded)

	Timeframe	Paragraph	Institution
Resolution Funding			
Make advance arrangements to allow, as a last resort, the quick mobilization of public funds to support resolution, and establish that any losses are recouped from the banking industry.	Medium -term	36–38	MoFED, BoM
Emergency Liquidity Assistance			
Streamline conditions for ELA in the BOMA.	Near-term	55	BoM
Develop a formal policy and operational framework for ELA.	Near-term	56	BoM
Negotiate swap arrangements with international authorities, central banks, and private institutions in order to have access to sufficient FX.	Medium -term and long -term	57	BoM
Financial Stability Committee (FinStab)			
Adopt a charter detailing the responsibility of FinStab for crisis preparedness and management.	Near- term	59	MoFED, BoM, FSC
Set up a permanent Secretariat to provide the necessary logistical and technical support to FinStab.	Near- term	60	MoFED, BoM, FSC
Cross-Border Issues			
Gain an understanding of the implications of the recovery and resolution plans of the two D-SIBs that are G-SIB subsidiaries.	Near- term	62	BoM
Keep relevant host supervisory and resolution authorities apprised of information relevant to recovery and resolution of Mauritian banks' foreign subsidiaries and branches.	Medium and long- term (Ongoing)	62	BoM

I. INTRODUCTION

A. Overview of the Financial Sector

1. **Mauritius has a large, bank-dominated financial sector**. Total financial system assets exceed four times Gross Domestic Product (GDP) and banking sector assets are over three times GDP. MoFED estimates that, overall, the financial sector contributes about 10 percent to GDP, with cross-border banking contributing roughly 3 percent. Of the 21 banks, 5 are domestically owned, including the largest bank, with a roughly 40 percent market share of total deposits[1]; 13 are subsidiaries of foreign banks; 4 are branches of foreign banks; and 1 is a domestic/foreign joint venture. Cross-border business accounts for approximately 60 percent of banking sector assets and income, and foreign currency deposits of cross-border corporate sector and nonresidents represent about two-thirds of banks' deposits. The five largest banks account for two-thirds of total assets. Many banks in Mauritius are part of financial or mixed[2] conglomerates that include other financial services firms, but, in no case, insurance companies.

2. **The BoM introduced a domestic systemically important bank (D-SIB) designation assessment process in 2014, with the primary purpose of assigning a D-SIB capital surcharge**. The assessment follows closely the methodology promulgated by the Basel Committee on Banking Supervision (BCBS) in 2011, modified to the circumstances of the Mauritius banking system. It is based only on the banks' domestic (onshore) operations. The assessment and assignment of a capital surcharge are updated annually. Currently, five banks (three domestic and two foreign) are designated as D-SIBs. The two foreign D-SIBs are subsidiaries of G-SIBs.[3]

3. **To improve its capacity to supervise the largest conglomerates, the BoM required large bank groups to simplify their legal structures**. The two largest D-SIBs are now wholly owned subsidiaries of Intermediate Holding Companies (IHCs), which in turn are wholly owned subsidiaries of stock-exchange listed Ultimate Holding Companies (UHCs).[4] Under the UHC structure, group banking operations (domestic and foreign) are subsidiaries of a single banking IHC,[5] all other financial businesses are subsidiaries of a separate nonbanking IHC, and all non-financial companies are subsidiaries of a third group

[1] The government directly and indirectly owns 60.1 percent of the second largest domestic bank and 100 percent of another domestic bank as the result of the failures and merger of two small banks. In both cases, the government controls the nomination of the Board of Directors.

[2] Mixed groups include nonfinancial businesses, though these are reported to be very small relative to financial sector assets.

[3] Globally systemically important banks as designated by the Financial Stability Board.

[4] The D-SIBs themselves now have no subsidiaries.

[5] One bank subsidiary in a foreign jurisdiction remains a subsidiary of the Mauritius bank, pending approval of the local authorities to transfer ownership to the IHC.

IHC.[6] While motivated by supervisory objectives, the resulting simplified and streamlined legal entity organizational structure simultaneously enhances the resolvability of the largest two domestic D-SIBs. The smaller of the three domestic D-SIBs was not required to undertake a legal entity restructuring and the bank remains the parent of a number of other financial subsidiaries.[7]

4. **The banking system is relatively sound (Cf. Table 1 in Annex 1)**. The capital adequacy ratio (CAR) of the banking system stood at 17.5 percent at end-June 2016, above the regulatory minimum of 10 percent. Liquidity ratios of the banking sector as a whole remained adequate, and the sector continues to be profitable in spite of a deterioration in asset quality (nonperforming loans were 8.2 percent in June 2016, up from 5.7 percent a year earlier).[8] There is no sign of deposit flight from the "cross-border" global business companies (GBCs) in the wake of the renegotiation of the Double Taxation Avoidance Agreement (DTAA) with India in 2016, reflecting—according to the authorities and several market participants—the competitive platform for investments into Asia and Africa provided to GBCs, even after accounting for tax advantages.

B. Implementation Status of Previous Recommendations

5. **MCM TA missions[9] and the 2015 FSAP exercise conducted in the wake of the British American Investment Company (BAI) financial conglomerate failure highlighted significant gaps in Mauritius' financial stability framework (cf. Annex II)**. These include, notably, weaknesses in consolidated supervision and the supervision of mixed conglomerates, absence of a formal framework for contingency planning for bank resolution and crisis management, and absence of a formal institutional framework for macroprudential policy.

6. **Overall, implementation of MCM previous recommendations has been slow due to a large extent to change in the management of the BoM**. Some progress however has been made to strengthen the supervision framework. Indeed, the parliament has recently adopted amendments to the Bank of Mauritius Act 2004 (BOMA) and the Banking Act 2004 (BA), reinforcing the BoM's powers to regulate and supervise bank holding companies and monitor intra-group transactions, as well as those between the bank's group entities and its related parties. Furthermore, to align the regulatory and supervisory regime with international

[6] All IHCs are subsidiaries of the listed UHC.

[7] The restructuring was not required because the BoM felt the current legal structure was sufficiently supervisable. Resolvability has yet to be assessed.

[8] One foreign bank accounts for the bulk of the increase, and the loan exposures in question are guaranteed by its parent bank.

[9] See Technical Assistance Reports "Contingency Planning for Crisis Preparedness and Management," D. Parker (MCM), September 2016; and "Bank and Insurance Resolution, and Deposit Insurance," D. Parker (MCM), and S. Kobayashi (External expert), May 2016.

standards, new guidelines on corporate governance, credit impairment, measurement and income, and the use of external credit assessment institutions have been issued. Finally, progress has been made in the adoption of a risk-based approach to supervision.

7. **Furthermore, steps have been taken to implement several MCM recommendations on contingency planning for crisis preparedness and management**:

- The BoM has put in place a framework for D- SIBs. The five banks identified as systemically important are subject to a capital surcharge (ranging from 1 percent to 2.5 percent) for their systemic importance with effect from January 1, 2016, in a phased manner to become fully effective from January 1, 2019. Also, a capital conservation buffer of 2.5 percent, effective January 1, 2017, has been applied to all banks in a phased manner to become fully effective from January 1, 2020;

- The BoM has enhanced collaboration with host supervisors of the two largest domestic banks with cross-border operations. Findings of onsite examinations are shared during exit meetings and supervisory issues are discussed. In addition, joint inspections have been carried out with the home supervisor of two foreign-owned banks in October 2016. It has been an established practice of the BoM to request for commitment letters/letters of comfort from foreign parent banks;

- Work is underway to set up a DIS to better protect small, financially unsophisticated depositors in case of failure of a bank or nonbank deposit-taking institution, and prevent contagion and deposit runs in other healthy banks. In this respect, the BoM issued in February 2016 a draft DIS Bill for public consultation. The draft DIS Bill is under review by the MoFED;

- The BoM is considering holding discussions with subsidiaries of international banks on their resolution plans; and

- The BoM has developed a stress testing model to assess the ability of the banking industry to withstand shocks. The stress testing results could then be used as an indication for areas of focus.

8. **The government and financial authorities have yet to implement the principal elements of the Key Attributes for Effective Resolution Regimes for Financial Institutions (KAs) relevant for Mauritius**. Guidance to banks requiring that they prepare and regularly update recovery plans, addressing how they would respond to shocks to their capital and/or liquidity, has yet to be issued by the BoM. The KAs specify that each jurisdiction should have a designated administrative authority, or authorities, responsible for exercising resolution powers over financial institutions within the scope of the resolution regime ("resolution authority") and that where there are multiple resolution authorities, their respective mandates, roles, and responsibilities be clearly defined and coordinated but the

government has yet to take these steps. Some of the extraordinary resolution powers set out in the KAs for use in the case of the failure of systemically important financial institutions are not present in the current legislation and remain to be drafted and included in law. Resolution planning to help ensure the authorities' ability to effectively manage the failure of systemically important financial institutions has not yet been initiated. Deposit insurance legislation has been drafted by the BoM but has not yet been agreed with MoFED. The role of FinStab in systemic bank resolution and crisis management has not been defined.

9. **This report is organized as follows:** First, the report briefly discusses the current early intervention framework available to the BoM as supervisory authority. A second chapter identifies the weaknesses of the bank resolution regime and lays out the main recommendations for a design of an effective new framework. Finally, the third chapter discusses a number of institutional and operational issues of crisis prevention and management tools such as recovery and resolution planning, deposit insurance scheme, ELA, and cross-border arrangements.

II. EARLY INTERVENTION

10. **The current legal framework does not provide for adequate triggers to intervene at a sufficiently early stage to mitigate risks with respect to a bank's deteriorating financial condition**. There are two principal weaknesses:

- First, as a general matter, the BoM may only take enforcement action against a bank when the bank, or any of its directors or senior officers have engaged in unsafe and unsound practices, have "knowingly or negligently permitted" violations to "any" provision of the BA (or guidelines, regulations, instructions thereunder) or any legal act relating to anti-money laundering or prevention of terrorism. The reference to volition elements, such as "knowingly or negligently permitted" unnecessarily constrain the actions of the supervisor. Volition is difficult to prove (in case the actions are challenged in courts) and, as a result, may lead to regulatory forbearance. Moreover, volition should be irrelevant where restoring compliance with the law/and or the financial condition of the bank is the main objective.

- Second, specific triggers for enforcement actions that relate to restoring the financial condition of the bank (i.e., early intervention measures) occur too late to reverse or halt the deterioration, such as the inability of the financial institution to cover its liabilities or serious impairment of capital. These should instead enable the opening of more intrusive actions under a resolution procedure.

11. **The range of actions that can be taken after the triggers are activated is not clearly defined in the law**. Under the current legal framework, upon the identification of the situations described in Section 45 of the BA, the BoM can impose the following measures: (i) appoint a person to advise the financial institution in the proper conduct of its business and fix their remuneration; (ii) issue a cease-and-desist order; (iii) suspend temporarily or

permanently from office any director, senior officer or employee; and (iv) with court approval, freeze assets in case of commission or likely commission of an offence. In addition to these powers, the authorities informed the mission they interpret the BA as enabling the BoM to take any action "it deems necessary," including revocation of license even though the relevant powers are not specifically enumerated in the BA.[10] This framework raises the following concerns:

- It is unclear whether the application of more intrusive actions by the BoM, other than those explicitly enumerated in the BA, could withstand legal challenges.

- The effectiveness of the appointment of an "advisor" to the bank is doubtful if direct instructions of the supervisor to the entity do not have the desired effect, the appointment of an advisor, who does not have any control or administration powers over the entity, is not likely to be effective to remedy the problems. The authorities should reconsider the effectiveness of maintaining the figure of "advisor" during the early intervention phase and if so, specify his powers.

12. **The early intervention regime should be strengthened by incorporating triggers that allow for timely intervention and by explicitly providing for a wider range of powers**. Clear triggers for the use of enforcement powers—and, in particular, early intervention powers—should be established in the law, to ensure that the authorities will be able to deal with any situation ranging from relatively minor breaches of law or regulations or prudential standards to severe breaches that require license revocation. Qualitative[11] and quantitative[12] indicators outlined in banking law as triggers for early intervention measures, accompanied where necessary by an illustrative, open-ended description, are recommended. In relation to the powers, while flexibility is desirable, a careful balance must be struck with the need for transparency and proportionality by clarifying what powers may be exercised and when. This could be done by broadening the enumerated powers[13] but also including an

[10] Based on the authorities' interpretation of Sections 10, 16, 17, and 45 of the BA.

[11] For example, failure to comply with the requirements to operate in a "safe and sound manner" or to put in place an "adequate risk management and internal controls."

[12] For example, failure to comply capital requirements, liquidity requirements, risk concentration limits, etc.

[13] Notably, the wider set of enumerated powers could provide for powers to: require the implementation of recovery actions as set out in bank's recovery plan (as described in the next section below) to the extent that the bank has not taken recovery actions on its own initiative as set forth in the plan, require restructuring (free from the procedure of S. 32A that calls for an agreement of creditors), require additional liquidity levels as deemed appropriate by the BoM, limit compensation of directors and senior executives, require capital injections by shareholders within a specified limit of time, require the bank use its net profits to strengthen its capital base by restricting dividends and other discretionary payouts, require a specific provisioning policy, prohibit particular lines of businesses, restrict new loans, investments and refinancing, restrict acquisition or sale of assets, require a reduction in operating expenses, restrict increase of capital, etc.

express catchall provision that would enable the BoM to "take any other action it deems necessary and appropriate." These amendments would provide a transparent basis for the exercise of intervention powers and reduce potential legal risks for supervisors to take intrusive measures to address the deterioration of a bank's financial condition.

III. Bank Resolution Regime

A. Current Legal Framework

13. **Under the current framework, options for dealing with failing, or likely to fail, banks are limited to conservatorship and receivership**.

Conservatorship

14. **Conservatorship under Part IX of the BA can be imposed by the BoM under a broad range of circumstances**. These include when: (i) the capital of the bank is impaired or there is threat of such impairment; (ii) the bank or its directors have engaged in practices detrimental to the interest of its depositors; (iii) the bank or its directors have violated any provision of the banking laws, AML/CFT[14] enactments, guidelines or instructions, or when such violations are about to occur; or (iv) the assets of the financial institution are not sufficient to give adequate protection to the bank's depositors or creditors. Once appointed, the conservator takes control of the bank, suspending the rights and powers of the Board of Directors and senior management, and proceeds with the entity's rehabilitation or reorganization.

15. **Procedures under the conservatorship are lengthy and cumbersome, and risk hampering the BoM's ability to ensure business continuity, protect depositors' interests, and avoid loss of value of the bank's assets**. A reorganization performed under the conservatorship requires the conservator to propose a reorganization plan, after notifying all depositors and creditors who would not receive full repayment under such plan and conducting a hearing with all interested parties. Unless the plan is rejected in writing (in the period of 30 days) by one-third of the aggregate amount of deposits and one-third of creditors, other than subordinated creditors, the plan is approved by the BoM Board. It is unclear whether refusal by creditors and depositors of the thresholds established in the law would lead to an automatic opening of a compulsory liquidation (see below). Also, there is no time limit established in the BA restricting the duration of conservatorship.[15] The deterioration of the value of the bank's assets during this period is imminent (inter alia depositors, banks and other financial sector participants may suspend or minimize their

[14] Anti-Money Laundering/Combating the Financing of Terrorism.

[15] However, in theory, the bank should be put in compulsory liquidation under section 75, in case its capital/assets ratio falls below 2 percent.

operations with the bank under conservatorship, borrowers will stop payment under the belief the bank will fail, etc.).

16. **More importantly, reorganization measures seem to be applied in accordance with the Companies Act, and therefore the conservator does not fully replace the bank's shareholders**. Under Section 66 of the BA, the conservator "may" overrule or revoke actions of the Board of Directors and bank's management, suspend powers of the Board of Directors, suspend repayment or withdrawal of deposits and other liabilities, disaffirm or repudiate any contract or lease other than financial contracts such as securities contract, forward, repo, swap agreements or other similar as the BoM determines,[16] and enforce other contracts notwithstanding termination, default or acceleration clauses. It remains unclear whether shareholders' rights would be suspended also during this phase. As a result, it is unlikely that the conservator could perform transactions that would typically require shareholders' approval, such as the transfer of substantially all of the assets and liabilities of the bank, a merger or sale of shares of the bank, a recapitalization, or a restructuring of claims, including through debt-to-equity conversions. Furthermore, Section 67 clearly states that the aim of the conservatorship is to reestablish the institution to a sound and solvent operation so it can be "returned" to management or a new management and restore the exercise of shareholders' rights. However, as currently designed, the conservatorship tool is far from effective to preserve the "going concern" value of the institutions, and could provide an undue windfall profit to the original shareholders responsible for the bank being in trouble.

17. **As recommended by the 2015 FSAP and previous Fund TA, temporary management should be used in very limited cases and for a very short period of time**. Effectiveness of this temporary public management outside resolution needs to be further discussed with the authorities. Although current features of conservatorship could be useful in the case of fraudulent and criminal activities, so as to assist in ascertaining the facts, adequate safeguards should be put in the legislation to avoid this tool being used as a postponement of taking resolution actions against nonviable entities.

Receivership

18. **Receivership is the default mechanism to wind-up insolvent institutions in Mauritius**. Receivership is triggered when: (i) the capital of the bank is impaired or its condition otherwise unsound; (ii) ratio of its capital to assets is less than 2 percent; (iii) business is conducted in an unlawful, unsafe or unsound manner; (iv) continuation of its activities its detrimental to depositors; and (v) the license of the bank is revoked. Under Part XI of the BA, once a receiver is appointed by the BoM, he assumes legal control of the bank's estate (Section 76 and 78) and commences proceedings leading to compulsory liquidation, such as, collecting and realizing its assets, and distributing the proceeds to

[16] Under subsection 5, the conservator may repudiate or disaffirm financial contracts that, in their opinion, are fraudulent.

creditors in full or partial satisfaction of their claims, with the surveillance of the Bankruptcy Court (Section 85), and in accordance with the principle of equal treatment of similarly situated creditors and the applicable hierarchy of claims (Section 86).

19. **Several deficiencies in the legal framework may result in a disorderly closure of the bank**. The following observations can be made regarding the current regime:

i. *Resolution funding by the BoM*. The BoM is authorized to purchase any assets of the bank in liquidation or assume any of its liabilities. It is authorized also to make loans to any other financial institution and any other investors for merging or purchasing assets of the bank under liquidation. This provision is inconsistent with good practices, as it hampers the BoM's financial autonomy, and should be eliminated. Any official financing assistance for resolution measures should be the government's responsibility, and be granted under strict rules that ensure market discipline and preserve the interest of the public purse. Recommendations for the legal framework for public funding for the support of resolution measures are discussed in the following section.

ii. *Triggers for receivership are not aligned with those of enforcement measures and conservatorship*. The interaction between these three phases is not clear. On one hand, qualitative triggers show significant overlap (e.g., violation of the BA or other secondary legislation, unlawful activities, unsafe and unsound practice, threat to depositors). On the other hand, quantitative triggers for receivership are not activated at an early juncture but only when the bank is already insolvent (impaired capital, assets/capital ratio less than 2 percent).

iii. *The range of tools is very limited*. The framework only provides for the opening of compulsory liquidation and transfer of assets and liabilities, including the use of a bridge bank. However, it does not allow the Resolution Authority to treat effectively going concern failing banks. In systemic cases this could increase the spillover effects and impede the continuity of essential services and functions.

iv. Although minimal, *the interaction between the receiver and the Bankruptcy Court*[17] *should be clarified* to avoid lengthy liquidation proceedings that impede access to critical deposits frozen for the duration of the liquidation. The authorities should assess whether the constitutional framework allows the liquidation procedure to be conducted in the administrative sphere only and subject to judicial review.

[17] Under Section 85 of the BA, the receiver is required to file with the Bankruptcy Court a schedule of steps to be taken during liquidation and submit for approval the newspaper for publication of claims not allowed in full. The Bankruptcy Court may mandate the modification of the schedule if an objection is sustained.

v. *Once the DIS is created, its legal framework should be reconciled with the BA to avoid discrepancies and allow timely depositors' payout.* The priority of claims established in Section 86 of the BA should also be modified to recognize the subrogation of the DIS in the same hierarchy of creditors as insured deposits. Note that nonresident depositors in Mauritius will be granted a lower priority of claim, as they are not covered by the DIS. the draft DIS Bill should be revised to ensure coherence in terms of the procedure followed for the payment of the depositors' claims and the deadlines for the disbursements of the funds. (See section on DIS.)

B. Designing a Resolution Framework for Mauritius

20. **Strong legal underpinnings for orderly bank resolution could be introduced**. International best practice requires that resolution be initiated at a sufficiently early stage following signs of bank distress to minimize the potential consequences of a disorderly failure. This is, resolution should be triggered when a bank is no longer viable or likely to be no longer viable, and before it becomes balance-sheet insolvent. Additionally, the legal framework should provide for a broad range of resolution powers available to an identified resolution authority and adequate tools and techniques for ensuring the orderly exit of nonviable banks. Legal safeguards must be also put in place to ensure the right balance between the mechanisms that support prompt and effective resolution and protection of shareholders' and creditors' rights.

Resolution authority and scope of the resolution regime

21. **The personal scope of the resolution regime should be clearly defined**. This regime could cover banks, branches of foreign banks, and nonbank deposit-taking institutions.[18] Holding companies should be covered insofar as that is necessary to resolve a bank or a financial group as a whole. In the case of financial holding companies, in principle, they should be covered. In the case of mixed activity holding companies there are several alternatives: (i) if their nonfinancial activities are minimal, they could be included in the resolution regime; (ii) if their nonfinancial activities do no provide services to banks in the group and their failure would not impede resolution of the bank or financial group, they can be excluded from the scope of the resolution regime; and (iii) the BoM could require all mixed activity holding companies to establish financial holding companies (as has already

[18] On the assumption that the FSC is designated the resolution authority for financial institutions, there is a need to designate which authority (BoM or FSC) is the lead resolution authority for each financial group in Mauritius. There are several options. One is that if the group includes a bank the BoM is the lead resolution authority. Another is that if the group is predominately comprised of FSC-regulated institutions and includes a nonbank deposit-taking institution (NBDTI), the FSC is the lead resolution authority. A third option is that, in addition to any group that includes a bank, the BoM is the lead resolution authority for any group that includes an NBDTI. In principle, the decision could be based on which agency is the consolidating supervisor for each group. The mission understands that this decision has not yet been taken in all cases.

been done in the case of the two largest domestic banks, with their banking IHCs and nonbanking IHCs) and to include those holding companies (i.e., the IHCs) in the scope of the regime but not the mixed activity holding companies (the UHCs).

22. **Governance arrangements of the resolution authority could be somewhat strengthened**. In line with international standards,[19] the designated resolution authority should have sound governance, including operational independence, transparent processes, adequate resources, and be subject to rigorous evaluation and accountability mechanisms to assess the effectiveness of any resolution measures. The BoM satisfies such requirements. Furthermore, given the current division of labor between the different financial sector authorities, the considerable size of the financial system (including the nature of the business of institutions considered systemically important or critical at failure), skills, abilities, and resources available to the BoM, designation of the BoM as resolution authority seems reasonable.[20] Nonetheless, allocation of roles and responsibilities in resolution within the BoM and between the BoM and other institutions participating in crisis management and resolution should be clarified.

23. **Checks and balances should be put in place to mitigate potential conflicts with the BoM's expanded mandate, which would include monetary policy, prudential supervision, ELA operations, and resolution**. While such integration creates potential synergies (e.g., readily available supervisory information allows for swift resolution action), potential conflicts should be recognized, for example, in resolution the BoM will need to balance its roles as creditor (ELA), seller (resolution authority), and supervisor (of potential buyers). Building on other jurisdictions' experience, an effective governance arrangement within the BoM could be designed to ensure the separation of functions to minimize conflicts of interests and enable appropriate focus on each mandate. Implementation should be based on a different decision-making structure (e.g., creating a Unit or Department for Resolution with permanent personnel) in charge of resolution planning and resolutions processes subject to a single reporting line to the Board. The oversight of the department could be allocated to a deputy governor, who should not share the responsibilities for prudential supervision. Although this arrangement could mitigate the conflict of interests at one level of the decision-making structure, concentration of powers at the level of the governor remains an issue for sound governance. Further analysis should be provided in this regard.

24. **Desirability of including nonregulated related companies of the financial group within the scope of the resolution regime could be considered**. With the systemic implications evidenced in the case of the failure of Bramer Bank Corporation and its related companies in the financial conglomerate (British American Investment Company), it is

[19] The Key Attributes.

[20] In practice, the BoM should establish a Resolution Unit with a small permanent staff to undertake ongoing tasks (see Section IV), with the capacity to mobilize additional staff to support any actual bank resolution work.

recommended that the resolution regime is applicable to these entities to the extent to which they provide essential services or are otherwise necessary for the continuity of critical functions carried out by the bank under resolution or group-wide (e.g., the provision of IT services, payment systems, etc.).

25. **Of particular concern are the recent amendments to Sections 110 of the Insurance Act**. Under the newly enacted Section 110(b), in the event an insurer is put under official administration under Part XI of the Insurance Act, the appointed administrator may, with the authorization of the Financial Services Commission (FSC), proceed to the "transfer of undertakings" in whole or in part of any of the related companies of the insurer under administration. The following observations can be made:

i. This provision would allow the FSC to require the transfer of assets of a licensed bank to the related insurer under official administration to satisfy the payout.

ii. Furthermore, Subsection 2 establishes that the transfer of undertakings will not be subject to prior approval of shareholders, creditors, or any stakeholder of the related company suffering the unilateral transfer. It remains unclear whether the approval of the BoM as regulator and supervisor of an affected banking institution would be necessary.

iii. Similarly, Subsection 3 mandates that no competing winding-up proceeding could be initiated against the related company before the FSC performs the transfer of undertakings. It is the mission's understanding that this provision would also preclude the initiation of a resolution procedure of a bank under the authority of the BoM in case its related insurer is already under official administration.

iv. The authorities communicated to the mission that this provision was enacted as an emergency measure for the resolution of the British American Insurance in 2015. To date there are no more cases of banking and insurance institutions within the same financial group.

v. Recent amendments to Section 3 of the B A (September 2016) have reaffirmed the supremacy of the Insurance Act over the BA in the explicit provision previously cited. The amendments explicitly assert that Compulsory Liquidation under the BA does not prevail over Sections 110(a) and 110(b).

26. **The Insurance Act and Banking Act should be revised to clarify resolution in the event of regulated entities within a group**. Revisions of Sections 110 (a) and 110 (b) of the Insurance Act, are necessary, at least to establish the carve-out that banking entities cannot be compelled to transfer their assets and liabilities without the express authorization of the BoM. Notwithstanding the authorities' remarks on the provisional character of the sections, the

mission expressed its concern for the permanency of the rule.[21] Additionally, the framework could clarify the lead resolution authority and/or coordination of proceedings should one or more regulated entities are resolved within the same group.

Entry into resolution, powers, and tools

27. **Of particular importance for an effective resolution regime is the determination of the appropriate conditions for the entry into resolution**. Enabling the use of special powers by the resolution authority must be supported by: (i) clear triggers that permit action before the bank is insolvent and before all equity has been fully absorbed; and (ii) the adequate checks and balances to ensure there is no adverse effect on constitutionally protected shareholders' and creditors' property rights.

28. **Clear criteria for entry into resolution comprising a combination of qualitative and quantitative indicators should be adopted**. Quantitative triggers, based usually on prudential requirements, although more rigid, provide better transparency and clarity in the resolution process for stakeholders. They also have the virtue of diminishing opportunities for regulatory forbearance, as they operate as a mandatory trigger to enable the resolution authority to initiate resolution (e.g., capital falls below "x" percent of applicable requirements, liquidity ratio requirement is breached by more than "x" percent, etc.). On the other hand, qualitative triggers, based commonly on supervisory judgment, grant the resolution authority the flexibility to adjust different responses to the circumstances. They may also restrict moral hazard through the introduction of a constructive ambiguity providing a wider scope for intervention and encouraging thorough monitoring and vigilance from the authorities (e.g., unsafe and unsound practices, loss of confidence of depositor or imminent loss of market access, continuous violations of the law, or administrative regularities as defined by the supervisor, etc.). Careful consideration should be given to determine the appropriate indicators for the prompt and timely action, giving due regard to the type, size of supervised entities, and business models. Deployment at an early juncture is fundamental.

Constitutionally protected shareholders' and creditors' rights that can enter into conflict with the resolution regime will need to be reconciled. The authorities expressed their concern about possible legal challenges against the resolution authority regarding the implementation of resolution measures. The mission was informed that property rights protected under Sections 3 and 8 of the Constitution of Mauritius to be lawfully affected (i.e., expropriation) would need to be justified by a public interest necessity and be granted

[21] See TA Report on "Bank and Insurance Resolution, and Deposit Insurance" of May 2016 for specific recommendations for strengthening the insurance resolution regime.

the right of a just and adequate compensation.[22] Such interference with property rights, under the local legal system, should abide to the principle of proportionality. Additionally, under the Constitution any person having an interest in or right over the property has a right of access to the Supreme Court, whether direct or on appeal for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled.

29. **It was acknowledged that several jurisdictions require a determination as to whether bank resolution is in the public interest and/or that the use of resolution powers is necessary and proportionate before resolution can be commenced**. Three different approaches can be distinguished:

- In some jurisdictions, "financial stability" has been recognized as a matter of public interest, thus justifying the need to impinge upon, in some cases, individual interests for the initiation of resolution proceedings. Where this has been a long-standing practice, the public interest test in case of bank resolution is practically implied (e.g., Canada, Japan, and the United States). This is justified in the fragility of banks' balance sheets and their susceptibility to runs, as even the occurrence of a small bank failure could give rise to contagion.

- Other jurisdictions require the public interest test to be met on a case-by-case basis, taking into account different considerations such as protection of financial stability, protection of depositors, etc.

- Lastly, other jurisdictions require a determination that the exercise of resolution powers is necessary and proportionate, commonly requiring demonstrating that; (i) there are no reasonable prospects that an alternative private sector solution is feasible; (ii) there are no other supervisory measures, other than resolution, that would prevent the failure or restore viability in a reasonable time; or (iii) that insolvency proceeding would not satisfy public interest considerations.

30. **The mission discussed with the authorities the advisability of introducing the concept of public interest in the banking resolution regime**. The mission shared examples of other common-law jurisdictions addressing conditions related to public interest test and proportionality and recommended the introduction of explicit statutory objectives of resolution that could guide not only the decision-making processes of the authorities, but also provide a legal anchor for the application of the resolution powers and tools in the public interest. This would include in general terms; (i) maintaining financial stability;

[22] The authorities may want to analyze if a "no creditor worse off" safeguard with adequate framework of compensation established in the law (including independent evaluation, value base for the compensation, state responsibility for the payment of the compensation, and timeline for payment of the compensation) could satisfy the constitutional protection.

(ii) protecting and enhancing public confidence in the banking system; and (iii) ensuring continuity of critical economic and financial services and functions.

31. **The supervisory and resolution authorities must be able to exercise their legal powers with adequate flexibility and speed, while ensuring due process and legal remedies for injured parties as provided by law**. It is frequently the case that resolution action will be subject to legal challenges that could impede the timely use of resolution powers, with potential risks to financial stability. In this regard, international good practice suggests that a proper balance be struck between the public interest and individual rights to due process. More specifically, the international standards advocate that "legislation […] should not provide for judicial actions that could constrain the implementation of, or result in a reversal of, measures taken by resolution authorities acting within their legal powers and in good faith. Instead, it should provide for redress by awarding compensation, if justified."[23] Each of these elements was discussed at length with the authorities. The mission was informed that most of these principles of the common-law are recognized in the Mauritian legal system for ex post judicial review of administrative actions. Codifying those principles in the Banking Law is advisable, if appropriate and constitutionally permitted under the local legal system, as that would promote legal certainty for the exercise of the resolution powers. Examples of jurisdictions that have taken this approach were discussed with the authorities.

32. **Of equal importance is limiting the possibility of injunctive measures once a resolution proceeding has been initiated**. The authorities are encouraged to analyze whether, in their legal system, there are injunction orders or other precautionary measures available to depositors and creditors that could potentially prevent a resolution decision being implemented by the resolution authority, and, if so, under what conditions and with what consequences. Also, the possibility that the law might restrict these measures (e.g., the United States) could be analyzed, in particular since it seems that injunction orders are frequently used to suspend the implementation of certain supervisory decision of the BoM (e.g., license revocation).

33. **In accordance with best practices, the resolution regime should allow the BoM to implement any or several of the following resolution measures in those cases when the BoM has determined that the resolution triggers have been met**:

- Recapitalize the financial institution by unilaterally restructuring its debt or writing down existing capital and issuing new shares.

- Conclude mergers and acquisitions without shareholder consent.

[23] Key Attribute 5.5.

- Transfer assets and liabilities to other institutions, including a bridge bank that would be established for this purpose, without the need to obtain the consent of shareholders or third parties.

- Activate the government's authority to provide bridge-financing to facilitate the transactions described above.

- Assume public ownership of the institution on a temporary basis once the shareholders and unsecured creditors have absorbed the necessary losses.

34. **The resolution regime should also provide the BoM, as resolution authority, auxiliary powers to support effective resolutions**. These should include the power to impose a stay on creditor actions; power to ensure continuity of services and functions in resolution to the bank under resolution or a successor entity by an entity of the same financial group; power to impose a temporary stay on the exercise of contractual acceleration or early termination rights that may arise under financial contracts; powers to recover monies form responsible persons (shareholders, managers), including claw-back of variable remuneration, terminate contracts, etc.

35. **Equally important is to provide adequate safeguards to protect creditors and shareholders of a bank in resolution:**

- The resolution authority should be required to exercise resolution powers in a way that respects the hierarchy of creditor claims under the applicable insolvency regime (Section 86 of the BoMA). While the resolution authority has the duty to observe the principle of equal (pari passu) treatment of creditors of the same class, it will be allowed to depart from that principle where it is necessary for either of the following purposes: (i) to protect financial stability by containing the potential systemic impact of the firm's failure; or (ii) to maximize the value of the firm for the benefit of all creditors.

- Where a bank is resolved under a special resolution framework, compensation ought to be available to creditors to ensure that they are not left worse off in the resolution than if the bank had been allowed to fail and lapsed into liquidation ("no creditor worse off" safeguard with adequate compensation).

- Where resolution powers permit transfers of property, resolution regimes need to provide sufficient safeguards to stakeholders by protecting customer property rights, security interests, and financial collateral arrangements in financial contracts (including set-offs and netting rights).

Funding for resolution

36. **The legal framework should provide the legal basis for financing mechanisms to facilitate the implementation of the resolution scheme defined by the resolution authority**. The main principle should be that losses are first borne by the shareholders and unsecured creditors of the failing bank, thus promoting market discipline and preserving the interest of the public purse. However, there are cases in which the temporary use of public funds may be needed to prevent systemic risk (i.e., in cases where application of a resolution measure other than receivership is needed to preserve financial stability and minimize the impact on the economy). The law should clearly state that this is a fiscal responsibility. Any loss incurred by the state should be fully recouped, ex-post, from the industry.

37. **It is recommended that the authorities explore the possibilities within the constitutional and legal framework to establish mechanisms that would allow the public financial support to be provided promptly and efficiently**. The authorities may want to consider establishing a standing budgetary authorization, with robust ex post transparency requirements toward the legislature to avoid undue delays that may hamper the ability of MoFED to provide the needed support in a timely manner.[24] Also, the authorities may want to analyze to what extent the issuance of government guarantees and government bonds will be limited by the public-sector debt ceiling and procedures established under the Public Debt Management Act.

38. **In line with the FSB's Key Attributes, public funding should only apply for systemic banks or situations**. For non-systemic banks that are failing or likely to fail, the appropriate options include P&A or liquidation.

IV. Crisis Prevention and Management Tools

A. Recovery and Resolution Planning

Recovery planning

39. **Draft guidance to banks on a requirement to prepare recovery plans was initiated by the BoM in 2015, but remains incomplete and should be finalized**. Since that time, a large body of material addressing good practices in recovery planning has become publicly available. For example, the European Banking Authority (EBA) has issued

[24] To establish adequate safeguards for the use of public money and avoid moral hazard, public support for resolution measures must be coupled with the requirement that its use will only be granted in systemic cases, when financial stability is threatened, and as last resort when private solutions have been exhausted or are impracticable and alongside loss-sharing of bank owners.

guidelines on developing recovery planning scenarios[25] on the treatment of critical functions and core business lines in banks' recovery plans,[26] and on identifying minimum qualitative and quantitative indicators that banks should include in their recovery plan to identify when to trigger escalation processes and assess whether recovery actions should be taken.[27] National authorities have provided guidance to banks on their expectations for the content of recovery plans, including the U.K. Prudential Regulatory Authority[28] and the Hong Kong Monetary Authority.[29] Other national authorities have issued consultative documents on legislative and policy changes related to recovery planning, including the Monetary Authority of Singapore.[30] The BoM should define its expectations for banks' recovery plans and draft comprehensive guidance to banks on those expectations, especially for large- and medium-sized banks and the NBDTIs. The material in the public domain will prove useful in that effort.

40. **The BoM will also need to establish internal procedures for the supervisory review and assessment of recovery plans**. The review of banks' initial plans is likely to reveal scope for improvement, and the BoM will need to provide feedback to banks on the supervisor's views on the adequacy of the plans. For these processes, too, guidance is available in the public domain.[31] It is anticipated this will be an iterative process over several years until all banks have adequately incorporated recovery planning into their internal risk management functions.

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[25] *Comparative report on the approach taken on recovery plan scenarios* at: http://www.eba.europa.eu/documents/10180/950548/Report+on+benchmarking+scenarios+in+recovery+plans.pdf.

[26] *Comparative report on the approach to determining critical functions and core business lines in recovery plans* at: https://www.eba.europa.eu/documents/10180/950548/EBA+Report+-+CFs+and+CBLs+benchmarking.pdf.

[27] *Guidelines on the minimum list of qualitative and quantitative recovery plan indicators* at: https://www.eba.europa.eu/documents/10180/1064487/EBA-GL-2015-02+GL+on+recovery+plan+indicators.pdf/4bf18728-e836-408f-a583-b22ebaf59181.

[28] *Supervisory Statement on Recovery Planning* which sets out expectations for all banks regardless of size at: http://www.bankofengland.co.uk/pra/Documents/publications/ss/2015/ss1813update.pdf.

[29] *Supervisory Policy Manual: Recovery Planning* at: http://www.hkma.gov.hk/media/eng/doc/key-functions/banking-stability/supervisory-policy-manual/RE-1.pdf.

[30] *Proposed Legislative Amendments to Enhance the Resolution Regime for Financial Institutions in Singapore* at: http://www.mas.gov.sg/~/media/MAS/News%20and%20Publications/Consultation%20Papers/Proposed%20Legislative%20Amendments%20to%20Enhance%20Resolution%20Regime%20for%20FIs%20in%20Singapore.pdf.

[31] See for example EBA's *Technical standards on the assessment of recovery plans* at: http://www.eba.europa.eu/documents/10180/760181/EBA-RTS-2014-12+Draft+RTS+on+assessment+of+recovery+plans.pdf/27342de8-24f0-4d0e-a531-ec21f61f10f4.

Resolution planning[32]

41. **No progress in resolution planning has been made, and this work should be initiated as soon as possible**.[33] Should a bank failure suddenly be imminent, the authorities will likely be in a reactive mode. They will not be in a position to benefit from the steps identified in the course of resolution planning, which could have been taken in advance to facilitate their analysis and decision making, improve the effectiveness of their actions, and reduce potential costs to taxpayers and the economy. On the assumption that MoFED will designate the BoM as the resolution authority at least for banks, NBDTIs and bank IHCs; the BoM should begin preparing resolution plans for banks, and likely by necessity, for bank IHCs.

42. **The resolution planning process initially will involve a bank-by-bank assessment of its systemic importance**. The goal of the assessment by the BoM (likely in consultation with MoFED and FinStab) is to determine which banks could be put into compulsory liquidation (receivership) under the BA (accompanied by an insured deposit payout or transfer once the DIS is in effect) without having systemic consequences. For other banks, the use of the extraordinary resolution powers described above will need to be contemplated by resolution planners. These decisions will require policy agreement on which bank activities (including those of domestic banks, and foreign subsidiaries and branches) constitute critical financial and economic functions in the context of the Mauritian economy, such that they must be maintained undisrupted as ongoing operations (i.e., not placed into receivership).

43. **Resolution plans may need to be developed for a large number of banks**. Resolution plans need to be developed for domestic banks where there are concerns regarding potentially adverse systemic consequences of receivership. Resolution plans also will need to be developed for foreign bank subsidiaries engaged in critical functions, where the home resolution authority has not developed a resolution plan deemed to adequately protect critical economic functions in Mauritius. To the extent any foreign branches are deemed to be engaged in critical functions, and are not subject to an adequate resolution plan, the BoM will need to consider whether a plan for potential stand-alone resolution is required.

44. **Resolution plans should address how the BoM will apply its legal powers to resolve a bank failure without disruption to its critical functions, and at least cost, including potential costs to taxpayers**. The fundamental guidance on the nature of

[32] See recommendations on additional operational aspects of resolution planning in the reports of the 2015 MCM TA missions cited earlier.

[33] As noted, MoFED has not yet designated a bank resolution authority.

resolution plans is set out in KA 11.6 of the Key Attributes.[34] Appendix I, Annex 4 of the Key Attributes provides additional guidance on the components of resolution plans.[35] The Assessment Methodology for the Key Attributes[36] provides further insight as to expectations regarding resolution plan requirements and the resolution planning function.[37] The BoM should designate staff to become familiar with this guidance.

45. **The first step in any resolution consists on imposing losses on shareholders and creditors**. Shareholders' equity should be written down to the extent necessary to absorb losses in resolution (including to zero). Any remaining losses should be borne by creditors to the extent practical. Resolution planners thus need to contemplate the bank's liability structure and determine which classes of liabilities could be subject to imposition of losses. At least, subordinated debt should bear full loss.[38]

46. **Resolution planners may need to address potential resolution of parent entities and other financial institutions in groups**. One means to help ensure that a failing systemic bank can continue in operation is to require, in advance, that it issues to its parent holding company (such as its IHC) subordinated debt that could be written off to recapitalize the bank, should the bank incur losses that causes it to breach its CAR requirement. In effect, losses of the bank are passed to its parent. (The same effect on a parent will be inherent in any form of resolution in that equity held by the parent is written off and losses are potentially imposed on debt instruments issued by the bank and held by the parent.) This may, however, cause the failure of the parent, with potential implications for other of its subsidiaries and any parent of the parent (UHCs in the case of IHCs). These potential implications will need to be addressed in bank resolution plans, and the BoM will need to work with the FSC to plan for effective group-wide resolution where FSC-regulated entities are part of the group.

47. **Resolution planners will need to assess the scope and advisability to transfer critical functions to another entity**. The goal of resolution is to protect such functions and not necessarily the entire failing bank. Some of the bank's operations likely will be deemed not critical. Resolution planning should entail an assessment as to whether the bank's critical functions (and the associated assets and liabilities) can be segregated (in advance or at the

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[34] *Key Attributes of Effective Resolution Regimes for Financial Institutions* at: http://www.fsb.org/2014/10/key-attributes-of-effective-resolution-regimes-for-financial-institutions-2/.

[35] As well as recovery plans to be prepared by the banks.

[36] The Assessment Methodology is a guide to national authorities in conducting a self-assessment of their adherence to the KAs, and for the IMF and WB to use in the conduct of FSAPs (Financial Stability Assessment Program, periodic reviews of member-jurisdictions' financial systems).

[37] *Key Attributes Assessment Methodology for the Banking Sector* at: http://www.fsb.org/2016/10/key-attributes-assessment-methodology-for-the-banking-sector/.

[38] In principle, after all losses have been absorbed, some liabilities could be subject to conversion into equity to help recapitalize the bank.

time of resolution) and transferred to a third-party acquirer or a bridge bank. The residual assets and liabilities would be put into receivership and liquidation.

48. **Resolution planners will need to address the means by which the government could assume temporary ownership of a failing systemic bank**. As a last resort, if other resolution options are not feasible, and after imposing losses on shareholders and on creditors to the extent necessary and possible, the government needs to be prepared to take ownership and recapitalize the bank.

49. **Regardless of which resolution powers are envisioned to be used, resolution plans must define in detail how the envisioned resolution actions will be executed**. This will necessarily involve an assessment of potential impediments to execution of the resolution actions and the use of the relevant resolution powers.[39] There may be a range of legal, structural, operational, and financial impediments to swift and effective resolution action. Once identified, resolution planners—likely in collaboration with the supervisors—need to work to eliminate such impediments, or if they cannot be eliminated, to find an alternative resolution plan or suitable work-arounds. The legal entity restructuring imposed on the two largest domestic banks is one example of steps that can be taken to eliminate structural impediments to resolution, and could be considered in the case of the third largest domestic bank, at least.

50. **The BoM will need to have the capacity to assess the resolution plans of home resolution authorities**. To the extent, the Mauritian subsidiaries and branches perform critical functions, resolution planners will need to gain an understanding of the implication of the home authorities' resolution plans for the banks' Mauritian operations. Any concerns will need to be addressed with the home authorities.[40] Concerns that cannot be resolved may imply the need for the BoM to develop its own fallback plan.

B. Deposit Insurance Scheme

51. **A draft DIS Bill was tabled by the BoM with MoFED in early 2016**.[41] Under the draft Bill, the DIS would be a BoM subsidiary governed by a six-member Board, with at least one full-time staff (the Chief Executive Officer (CEO)) appointed by the Board. The Bill provides that other staff could be seconded from the BoM.[42] DIS funds would be held in an

[39] This is referred to as a "resolvability assessment" in the Key Attributes and other materials.

[40] And with the relevant G-SIB Financial Stability Board-sponsored Crisis Management Groups. See section on Cross-Border Arrangements.

[41] The BoM has been iterating the DIS Bill since 2011 with the support of the IMF.

[42] The Bill also provides that DIS staff could be seconded to the BoM.

account in the BoM and invested per an investment policy approved by the Board. The DIS would have a "paybox plus" mandate.[43]

52. **The draft DIS Bill envisions the protection of local and foreign currency deposits, in Mauritius, of natural-person residents of Mauritius, with the level of protection yet to be determined but to be set by regulation**.[44] Thus, legal persons are not eligible for protection with the exception of sole proprietors (SMEs), nor are natural-person depositors in overseas branches of Mauritian banks or nonresident depositors in Mauritius. Any payouts would be in local currency and must be initiated within 20 days and completed within 60 days. The Bill provides for the power to conduct a purchase (of assets) and assumption (of deposits) (P&A) transaction, but is silent on the mechanics. An initial annual premium of 30 bps would be charged against insurable deposits (i.e., total deposits held by eligible depositors). The premium would be subject to annual review and potential change by the Board subject to the minister's approval. Back-stop funding is provided for in that the BoM would be authorized to lend to the DIS. The Bill includes a provision that no payment can be made during the first five years. The draft Bill does not provide for the power to charge an extraordinary premium and does not specify a target fund balance.[45]

53. **The draft Bill is largely consistent with the MCM TA recommendations,[46] IADI Core Principles and deemed appropriate for the Mauritian context, although certain modifications should be considered**. The Board is envisioned to be comprised of the BoM governor (as chairperson), a BoM deputy governor other than the one assigned responsibility for bank supervision, a retired banker appointed by the governor, two "representatives from non-governmental organizations" (NGOs) having relevant qualification and experience appointed by the governor, and the DIS CEO. In anticipation of establishing the functions of a resolution authority within the BoM, the Bill should specify that the deputy governor accountable for the resolution function should be a Board member.[47] The restriction limiting two members to be drawn from representatives of NGOs could be reconsidered as being unnecessarily restrictive. The Bill could be clearer in ensuring that the DIS's overhead costs be minimized, including by providing that the CEO might be part-time, and a presumption that most if not all staff functions could be undertaken by BoM staff. The 20-day period to initiate payout should be reduced to seven days at most. The provision that no payment can be made during the first five years should be dropped. Lending by BoM to the DIS should be fully collateralized, and any required loss backstop should be provided by MoFED. The Bill

[43] A mandate in which the Deposit Insurer has additional responsibilities, such as certain resolution functions (e.g., financial support).

[44] Preliminary analysis suggested a level of coverage of Rs 300,000, roughly equivalent to US$8,500 or 90 percent of per capita GDP.

[46] See TA report "Bank and Insurance Resolution, and Deposit Insurance," D. Parker (MCM), May 2016.

[47] At present, there are only two deputy governors. If that arrangement is retained, one would be responsible and accountable for the supervision function (as now), and the other for the resolution function.

should only be introduced after, or in conjunction with, establishment of the new bank resolution framework.

C. Emergency Liquidity Assistance and Other Forms of Financial Stability Lending

54. **The statutory provisions on exceptional financial assistance could be further strengthened**. Section 6(1)(o) enables the BoM to "*in exceptional circumstances, grant advances to financial institutions and such other entities on such terms and conditions and against such securities as Government or the Bank may issue.*" Section 6(1)(p) enables BoM to "*grant such advances as may be approved by the Board to the receiver, receiver and manager or liquidator of a bank in receivership, or in liquidation, as the case may be.*" While it is to be applauded that the law includes specific provisions on these two grounds for exceptional assistance, the wording of the law can be improved. The wording of Section 6(1)(o) is too broad and covers two very different cases: (i) emergency liquidity assistance *sensu stricto* to solvent but illiquid banks; and (ii) solvency support to actually or potentially insolvent banks. In regard to the former, the provision is overly wide and provides for explicit governmental interference with what is essentially a core central bank task that should be exercised autonomously. In regards of the latter, the provision is not protective enough of the central bank's financial stability. In a similar vein, Section 6(1)(p) does not protect the central bank sufficiently when engaging in such unconventional, quasi-fiscal activity.

55. **On the one hand, robust conditions and procedures for ELA could be specified in the law to eliminate moral hazard**. In accordance with good practice, a BOMA section for the provision of ELA could include the following elements: (i) ELA should be provided in exceptional circumstances, to solvent, viable institutions; (ii) at BoM's absolute discretion; (iii) against collateral to the satisfaction of the BoM; (iv) against prevailing penalty interest rates; (v) for limited periods of time; and (vi) in case the liquidity problem is caused by bank-specific weaknesses, on the basis of a program specifying the remedial measures the recipient bank would be taking to restore or improve its liquidity. Together, these conditions should signal to market participants that liquidity support is not guaranteed.

56. **On the other hand, to the extent that this role of the BoM is to be maintained, the law should further specify the conditions under which the BoM can engage in solvency support and resolution funding**. In an ideal situation, such exceptional assistance should be provided by the fiscal authorities and not the central bank. In case the authorities determine that, given the state of institutional development in Mauritius, this function should for the time being remain with the BoM (which is a choice of policy and not law), the legal framework for such function should be enhanced to protect the BoM. Specifically, statutory conditions should include a governmental decision that such lending is absolutely necessary for financial stability, and with an automatic and explicit governmental guarantee in case the BoM were to suffer losses. Of course, such lending should also be approved by the competent decision-making body of the BoM.

57. **A formal policy and operational framework for ELA should be adopted, taking into account the above-mentioned principles**. This should clearly define the limited circumstances eligible for ELA provision (e.g., in the context of resolution operations and as a last-resort solution after other funding solutions have been fully explored). First, guidance for assessing the entity's solvency and viability should be specified, as should be the collateral policy. For the latter, the creation of a registry of collateral that could be used in emergency situations is recommended. Second, the terms and conditions should be designed to minimize moral hazard. Third, ELA recipients should be subject to oversight and conditionality, including with respect to the use of ELA funding. Exceptions to these general principles should be defined, in particular in systemic cases where ELA can be provided to insolvent banks or against insufficient collateral; for example, in the context of implementing a credible resolution scheme, but with a government guarantee. This framework should make a clear distinction between liquidity provision for monetary policy and financial sector stability purposes.

58. **The size and the heavy reliance on foreign exchange (FX) funding of the Mauritius financial sector poses challenges for securing FX liquidity in times of stress**. Consideration should be given to entering into swap arrangements with international authorities and other central banks in order to have access to sufficient FX. The BoM should also revise the current framework for reserve requirements for foreign currency deposits as recommended by the 2016 Article IV Consultation and explore possible mechanisms (commitment letters and others) to incentivize the foreign parent bank to provide the necessary liquidity to its subsidiaries and branches. Prudential and macroprudential tools also should be used to reduce the risks for large FX demands.

D. Coordinating Arrangements

59. **Mauritius has in place FinStab to facilitate effective action in a crisis situation**. Established under the BOMA Section 55A, FinStab is chaired by the Minister of Finance and Economic Development and composed of the Minister for Financial Services, the governor of the BoM, the CEO of the FSC, the Director of the Financial Intelligence Unit, and the Financial Secretary. It assumes the general function to "regularly review and ensure the soundness and stability of the financial system." However, FinStab has been largely inoperative, although it met once in November 2016.

60. **The responsibilities of FinStab could be further detailed**. To this end, an MoU could be signed among the BoM, MoF and FSC that prescribe procedures for key crisis preparedness activities, such as:

- FinStab's objectives are to prevent, manage, and resolve financial crises, where possible, at minimum economic and social cost, and to minimize moral hazard; preventing bank failures is explicitly excluded as an objective;

- The signatories of the MoU share responsibility for crisis preparation and management through FinStab, with each relying on their existing legal powers and without prejudice to the BoM's autonomy provided by the BOMA;

- The signatories commit to continuous collaboration for: (i) information exchange; (ii) analysis of potential threats to financial stability; (iii) contingency planning through stress testing and crisis simulation; and (iv) communication plans. FinStab is enabled to involve other domestic and foreign authorities where relevant;

- The primacy of private sector solutions for bank recovery and resolution is emphasized, with consideration of the potential use of public funds only as a last resort and in systemic situations;

- FinStab should meet at least quarterly;

- Crisis communication plans should be coordinated, and any public communication shared among members before release; and

- The BoM's responsibilities in support of FinStab include: (i) alerting FinStab to potentially systemic threats and providing relevant information; and (ii) adopting corrective actions in accordance with the Banking Act.

61. **A permanent secretariat needs to be set up to provide the necessary logistical and technical support to FinStab**. The permanent secretariat's main duties would be to organize the exchange of information between relevant agencies, prepare meeting agendas, follow up on agreed action items, and coordinate the development of contingency plans prepared by relevant BoM and FSC departments. These plans should include, inter alia, the identification of key responsibilities and key personnel in different departments of the BoM, the FSC, and MoFED to tackle all aspects of an unfolding crisis, clear rules on public support, coordination mechanism with foreign supervisors, legal basis for measures contemplated, and method of communication with the public.

E. Cross-Border Arrangements

62. **There are no cross-border arrangements in place to address recovery and resolution planning or the coordinated implementation of resolution schemes**. While two of the five D-SIBs are subsidiaries of G-SIBs, the local operations are small relative to the banks' global business, and the BoM—as host authority—has not participated in the recovery and resolution planning work undertaken by the Financial Stability Board-sponsored Crisis Management Groups (CMGs).[48] As noted, the BoM has not yet initiated recovery or

[48] Two other smaller banks in Mauritius also are subsidiaries of G-SIBs.

resolution planning, and, thus, has not sought to engage with other relevant host jurisdictions, either as supervisory authority with respect to recovery plans or as resolution authority with respect to resolution plans and resolvability assessments.[49] There is currently no legal impediment for the BoM to enter into such cross-border agreements with foreign authorities.[50]

63. **The BoM should take steps to engage with relevant home and host authorities in the context of recovery and resolution planning**. As host authority, it should give priority to gain an understanding of the implications of the recovery and resolution plans of the two D-SIBs that are G-SIB subsidiaries. Information on the banks' recovery plans (and perhaps resolution plans) could be obtained initially through the local subsidiaries, with follow-up as appropriate with the home authorities and/or CMGs. Information regarding the resolution plans and their implications for the Mauritian subsidiaries should, in principle, be obtained from the CMGs. The BoM could pursue such engagement by, in part, relying on relevant FSB guidance.[51] As the home authority, and for the promotion of cross-border coordination, it is advisable that the BoM keeps relevant host supervisory and resolution authorities apprised of information relevant to recovery and resolution of Mauritian banks' foreign subsidiaries and branches. This should be kept in mind as the BoM begins to implement recovery planning requirements and resolution planning. The effectiveness of the BoM's ability to resolve the failure of a Mauritian bank with overseas operations will depend on good cooperation with relevant host authorities.

[49] To be certain, the BoM has not yet been formally designated as resolution authority, though this is anticipated, and as such has not taken steps to set-up the function.

[50] Section 64 of the BA.

[51] See *Guidance on Cooperation and Information Sharing with Host Authorities of Jurisdictions where a G-SIFI has a Systemic Presence that are Not Represented on its CMG* at http://www.fsb.org/wp-content/uploads/Guidance-on-cooperation-with-non-CMG-hosts.pdf.

ANNEX I. FINANCIAL SOUNDNESS INDICATORS

Table 1. Mauritius: Financial Soundness Indicators for the Banking Sector, December 2012—2016[1]

(End of period, in percent, unless indicated otherwise)

	2012	2013	2014	2015 June	2015 Dec.	2016 June
Capital Adequacy						
Regulatory capital to risk-weighted assets [2]	17.1	17.3	17.1	17.6	18.4	17.6
Regulatory Tier I capital to risk-weighted assets	15.5	15.1	15.1	15.2	17.0	15.9
Capital to total assets	8.5	8.8	9.3	10.3	10.5	10.0
Asset composition and quality						
Sectoral distribution of loans to total loans						
Residents	54.0	57.8	54.6	56.6	59.4	56.5
Central bank	0.0	0.0	0.0	0.0	0.0	0.0
General government	0.0	0.0	0.0	0.0	0.0	0.0
Deposit-takers	0.2	0.3	0.3	0.1	0.1	0.2
Other-domestic sectors	19.7	21.6	19.2	20.2	21.0	15.2
Other financial corporations	1.2	1.2	1.5	1.5	1.5	1.7
Nonfinancial corporations	32.9	34.7	33.6	34.8	36.8	39.4
Nonresidents	46.0	42.2	45.4	43.4	40.6	43.5
Geographic distribution of loans to total loans						
Domestic economy	54.0	55.6	52.1	52.3	55.0	50.1
Advanced economies, excluding China	5.9	4.6	4.9	5.9	5.9	8.1
Loans to other emerging market & developing countries, incl. China	40.1	39.9	43.0	41.8	39.1	41.9
Real Estate Markets						
Residential real estate loans to total loans	7.9	8.7	6.2	8.7	9.1	10.4
Commercial real estate loans to total loans	7.4	6.9	5.0	5.6	5.8	6.1
Nonperforming loans (NPLs) to total gross loans	3.6	4.2	4.9	5.7	7.2	8.2
NPLs net of provisions to capital	12.4	12.7	16.4	17.4	19.1	18.6
Earnings and Profitability						
Return on assets	1.4	1.3	1.4	1.1	1.2	1.3
Return on equity	18.1	15.3	15.2	11.4	12.1	13.4
Interest margin to gross income	74.0	66.8	49.0	62.0	68.5	67.0
Noninterest expenses to gross income	48.5	44.8	36.9	40.6	44.3	41.9
Personnel expenses to noninterest expenses	49.6	51.5	40.8	48.5	50.5	54.0
Trading income to total income	-0.6	14.1	35.4	15.0	10.0	8.7
Liquidity						
Liquid assets to total assets	19.1	22.5	24.1	25.1	27.1	28.7
Liquid asset to total short-term liabilities	27.5	31.0	30.2	31.7	34.5	35.1
Foreign-currency-denominated loans to total loans	56.5	55.9	58.8	58.2	55.9	60.3
Foreign-currency-denominated liabilities to total liabilities	52.4	53.1	54.5	53.8	52.7	54.2
Customer deposits to total (noninterbank) loans	128.7	137.0	133.2	142.3	146.8	155.3
Sensitivity to market risk						
Net open positions in foreign exchange to capital	2.1	2.1	2.4	2.8	3.0	3.1

Source: Mauritian authorities.

[1] Banking sector refers to deposit corporations, including nonbank deposit-taking institutions

[2] Total of Tier 1 and Tier 2 less investments in subsidiaries and associates.

ANNEX II. STATUS OF 2015 FSAP RECOMMENDATIONS

Recommendations		Status	Deadline for implementation
A. Banking Supervision and Regulation			
1	Establish framework for conglomerate supervision. Institute, for each mixed/financial conglomerate, a: o "lead" or "group" supervisor; o robust corporate governance framework; and o comprehensive risk management framework.	A framework for consolidated and conglomerate supervision has been discussed at the level of the Joint Coordination Committee between the Bank of Mauritius (Bank) and the FSC. The lead/group supervisor has not yet been identified.	Medium term
2	Review and revise the framework for consolidated supervision. o To fully use the authority to undertake on-site examinations at banks' affiliates, both locally and cross-border for a more effective consolidated supervision (Section 42 and 44 of BA 2004).	Executive Summary of Onsite Examinations by the Bank have been the FSC are exchanged. Joint Examinations of some entities that are regulated by both the Bank and the FSC have been carried out. Hold Supervisory Colleges for two of our local systemically important banks.	Near term
3	Improve the supervisory reporting requirements and analyses. *(to have a clearer view of banks' organizational structures, intra-group transactions and the group entities' risk profiles).*	The Banking Act 2004 was recently amended to make it more explicitly for obtaining information from group entities. Furthermore, the law was amended to allow consolidated supervision of financial groups which have an interest in a banking entity such that the bank can issue guidelines and instructions to the bank's intermediate and ultimate holding company. XBRL and BI portal.	Medium term
4	Develop a more intensive supervisory framework for D-SIBs.	A Guideline on D-SIBs has been issued since June 2014, and capital surcharge is applicable in a phased manner starting January 2016. A risk-based supervision framework is in process. This	Medium term

Recommendations		Status	Deadline for implementation
		will involve heightened oversight of DSIB.	
5	Develop a more comprehensive remedial action program. o Link it with triggers based on CAMEL rating and capital level benchmarks; and o Additional enforcement tools to enhance timely corrective action: ◆ Promptness of remedial actions to prevent a worsening situation *(early warning signals);* ◆ More formal communication to the bank's board *(formal agreement signed by the bank's senior management and board members);* ◆ Elimination of procedural delays; ◆ Review Bank's Guide on Intervention in Financial Institutions; and ◆ Publish remedial actions taken in BOM's annual report.	Early Warning Signals is currently in progress within the framework for risk-based supervision, which is underway. Triggers will be identified accordingly. CAMEL framework is being reviewed as part of the risk-based supervision framework.	Medium term
6	Revise the CAMEL rating framework to make it more risk-sensitive. o Increase linkages in supervisory actions; o Increase benchmarks; o Make the rating more proactive by identifying trends; and o Incorporate trigger points for supervisory action.	CAMEL framework is being reviewed as part of the risk-based supervision framework.	Near term
7	Amend Law(s) to: o facilitate conglomerate supervision; o improve consolidated supervision; and o strengthen corrective actions toolkit. Further, o The definition of 'control' should be extended to related non-financial institutions as well.	BOM Act 2004 and BA 2004 amended in September 2016 to facilitate conglomerate supervision and improve consolidated supervision. Regarding the definition of 'control,' no amendment has yet been made.	Medium term
8	Revise prudential norms for large exposures *(to be in a better alignment with Basel norms):* o Definition of 'large exposure' and 'connected counterparties'; o Prudential limits; and o Prudential limit exemptions that are not in alignment with Basel norms.	The Guideline on Credit Concentration Risk has been reviewed, but has not yet been finalized. Reviewed by Supervision Dept. and following changes made: o Definition of large exposure and connected	Near term

Recommendations		Status	Deadline for implementation
		counterparties aligned with BCBS norms; and o Prudential limit is being reviewed such that limit is based on tier 1 capital.	
9	Revise prudential norms for related party transactions. o Definition of 'related party' and 'transactions with related parties'; o Prudential limits; o Prudential limit exemptions that are not in alignment with Basel norms; and o Review banks' related party exposures at both gross and net levels.	The Guideline on Related Party Transactions is being reviewed and has not yet been finalized.	Near term
10	Revise regulatory and supervisory framework for liquidity risk. o Focus on the flow perspective with regard to maturity mismatches; o Focus on liquidity risk with respect to significant individual currencies; and o Revise/introduce prudential requirements and supervisory benchmarks.	A Guideline on Liquidity Risk Management has been reviewed. It incorporates Liquidity Coverage Ratio (LCR). The draft Guideline has been sent to the industry for their comments.	Near term
11	BOM cooperation and coordination with the FSC. o Two-way sharing of supervisory information for useful analyses (consolidated supervision and conglomerate supervision).	Joint Coordination Committee between the BOM and the FSC has been reinforced. Various subcommittees have been set up, including "Working Group on Financial Stability and Financial Conglomerates." Work is in progress.	
12	Introduce supervisory stress tests for banks *(as a complement to banks' regular stress tests).* o Undertake periodic supervisory stress testing and use the outcome to inform its ongoing supervision of banks; and o Extend the scope of stress testing to market risk, country and transfer risk, and operational risk.	A consultant has been appointed and he is training staff members to develop stress test models. Not yet implemented. Will be done in a phased manner. Currently focus is on credit risk.	

	Recommendations	Status	Deadline for implementation
13	Enhance risk analysis. Ongoing supervision through a blend of onsite and offsite analysis. Important factors to consider: o Inclusion of stress test results; o Enhance offsite analysis through data collection improvements and augmented granularity of cross-border exposure; o Onsite supervision: Due to heavy reliance on offsite monitoring, the accuracy of regulatory reports should be verified onsite; increase frequency of meetings with bank management; o Rapid growth-related risks; o Reactions/adjustments of banks to a deteriorating local economy as well as other economies where the banks operate; o Banks' management deficiencies; o Banks' risk management deficiencies; and o Banks reporting higher yield on loans/deposit interest than other banks should be monitored.	The process could be enhanced through the implementation of a Risk-Based Supervision framework which will take on board the recommendations made. The returns are being reviewed accordingly to capture granular information.	
	B. BOM initiatives in the Pipeline		
1	Expanding the scope of financial information collected through regulatory reporting and implementing analysis software.	XBRL and BI portal. Returns will be extended to entities within the group for capture of more information.	
2	Increased use of targeted inspections to address risks identified through offsite analyses.	Special Examinations are normally conducted for that purpose. However, the framework would be improved on implementation of Risk-Based Supervision.	
3	Update of examination procedures and report of examination process.	Will be updated when the Risk Based Supervision will be implemented.	
4	Review of existing guidelines to update, rationalize and address risks that are not already covered.	Guidelines on Information Technology Risk Management and LCR have been issued to the industry for comments. Guideline on Recovery Planning is in the process of finalization.	

Recommendations		Status	Deadline for implementation
5	New/separate laws for Deposit Insurance Scheme.	DIS Bill prepared and sent to Ministry of Finance for enactment.	
C. Macroprudential Oversight			
1	The Financial Stability Unit of the BOM should be strengthened and FinStab, as it appears in the law, should be made fully operational.	Financial Stability Division has been restructured. FinStab has met a few times.	
2	Establishment of a Macro-Prudential Policy (MaPP) authority, which covers the entire financial system with a prominent role for the BOM.	Not yet implemented.	
3	The Global Business sector requires close scrutiny and strengthened oversight, since the GBC sector has a major role in providing liquidity to the banking system.	More granular information will be requested from banks in this respect.	Priority
4	Amplified and better quality supervisory data and information should be collected from banks for enhanced analysis.	XBRL and BI portal.	
D. Banking Resolution and Crisis Prevention and Management			
1	Modify the BA 2004 in order to introduce an effective resolution framework for financial institutions, with: o precise triggers; o clear and well-targeted resolution powers; o specific and well determined exceptional actions applicable to cases with systemic implications; and o strictly regulated temporary liquidity assistance from the BOM. *(In collaboration with MOFED.)*	Technical assistance has been sought from the IMF on this matter.	Near term
2	Receivership should be designed as an efficient resolution tool; it should not be used to sell assets and liabilities to the central bank or to create bridge banks for an undetermined time financed by the central bank. Exceptions to the above should only be allowed in clearly-determined cases of systemic implications.	Technical assistance sought for review of the Banking Act.	Near term
3	The Courts should not be able to revoke the resolution actions taken by the regulatory authority.	Suitable proposals for legislative amendments were proposed for amendment to the Ministry of Finance, but they were not taken on board. The matter is to be taken on board with the TA for	Near term

Recommendations		Status	Deadline for implementation
		amendment of the Banking Act.	
4	Introduce an industry funded DIS with powers to facilitate resolution.	A DIS Bill has been prepared.	Medium term
5	Introduce, through changes in the current legal and regulatory framework: o a complete framework for crisis; prevention and management; o a duly designed FinStab; o a crisis prevention and managing strategy; o recovery and resolution plans for DSIFIs; and o a complete set of arrangements with foreign involved regulators to help in the implementation of resolution actions with cross-border implications *(In collaboration with MOFED.)*	Technical assistance has been sought from the IMF on this matter.	Medium term
6	Create a registry of collateral, and include a range of securities that could become eligible collateral in crisis situations.	Not yet implemented.	Near term
7	Seek commitment letters from parent banks to provide sufficient liquidity to their Mauritian operations.	Procedure already in place at licensing stage.	Near term