



TECHNICAL ASSISTANCE REPORT

UNION OF COMOROS

Operationalization of the Revised Law on the
Resolution of Financial Institutions

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Glossary

BCC	Central Bank of the Comoros
BRRD	2014 European Union Bank Recovery and Resolution Directive
DFI	Decentralized Financial Institution
DRRB	Directorate of Banking Resolution and Regulation
DSB	Directorate of Banking Supervision
ECF	Extended Credit Facility
ELA	Emergency Liquidity Assistance
FSB	Financial Stability Board
IMF	International Monetary Fund
KAs	Key Attributes of Effective Resolution Regimes for Financial Institutions
LEG	Legal Department, IMF
LRIF	Law No. 20-027/AU on the Recovery and Resolution of Financial Institutions
MCM	Monetary and Capital Markets Department, IMF
NCWO	“No creditor worse off than in liquidation”—difference in treatment of shareholders and creditors between resolution and liquidation
NPL	Nonperforming Loan
SRR	Special Resolution Regime

Preface

At the request of the Governor of the Central Bank of the Comoros (BCC), a Monetary and Capital Markets (MCM) Department mission visited Moroni, Comoros, from August 28 to September 4, 2024, to help the BCC Banking Resolution and Regulation Directorate (DRRB) and the BCC Banking Supervision Directorate (DSB) operationalize the BCC's powers to resolve banks and financial institutions following the adoption in June 2024 of revisions to the statutory resolution framework following the recommendations of IMF staff.

The mission presented its recommendations on the resolution funding mechanism and the collection of contributions from the financial sector during a meeting with the Governor of the BCC, Dr. Imani Younoussa, with the participation of Mr. Laythe Azali, Director of the DRRB.

The mission is grateful to all the teams for their outstanding professionalism throughout the exercise.

Executive Summary

In December 2020, the Union of the Comoros adopted Law No. 20-027/AU on the Recovery and Resolution of Financial Institutions (LRIF). The LRIF was produced based on a draft prepared by European experts, funded by the World Bank, drawing on the 2014 European Bank Recovery and Resolution Directive (BRRD), with adjustments that took into account the environment of the Comoros.

The authorities amended the LRIF in June 2024 following Fund staff's recommendations to improve the special resolution regime (SRR) on three aspects. The aim was to respond to the uncertainties or shortcomings identified by a 2021 MCM technical assistance report, with the following three priorities: (i) strengthening the statutory depositor preference, (ii) introducing a resolution funding mechanism, and (iii) giving the BCC the power to liquidate an entity in default.

Other changes to the statutory framework will be needed, concentrating on the most urgent revisions needed to mitigate any potential legal risk to resolution. To avoid potentially conflicting provisions in different laws, Article 89 of the Banking Law should be deleted at the next opportunity as the manner in which the authorities revised the LRIF in June 2024 can create confusion due to this old article in the Banking Law which provides for an imperfect form of depositor preference.

Although progress has been made with the support of several MCM missions on monetary policy implementation, the mission recalls the recommendation from the 2021 technical assistance report on the urgency of a liquidity assistance instrument. The BCC should, as a matter of urgency, establish a mechanism to provide liquidity in the event of a resolution, for example with an emergency liquidity assistance (ELA) facility.

The BCC has followed the recommendations of Fund staff and created a separate resolution function in the central bank to address conflicts of interest. The BCC has established a new Directorate of Banking Resolution and Regulation, structurally separate from the Directorate of Banking Supervision, with a separate reporting line to the BCC board. The Governor of the BCC requested assistance from the IMF's MCM Department to assist the DRRB team in implementing the new resolution tools and powers granted to the BCC, which was the subject of the technical assistance mission that prepared this report. In order to further strengthen the skills of its team, the DRRB should request training on bank restructuring and resolution and crisis management, and monitor available offers with a view to reserve seats as soon as they open. While the resolution function should be operationally independent from the banking supervision function, this does not prevent very close coordination and sharing of quantitative and qualitative information between these different functions of the BCC. Establishing clear coordination and information-sharing arrangements between the new resolution function of the BCC and the prudential supervision function is an essential precondition for an effective crisis management framework. Ideally, there should be seamless information sharing and shared databases for the banking supervision and resolution functions within the BCC, including information sharing of bank-specific quantitative (e.g., bank regulatory reporting returns) and qualitative (e.g., supervisory risks scoring of banks) information.

Part I of the report recommends the resolution tools and powers that the BCC should prioritize to operationalize its resolution powers. The BCC should, as a priority, operationalize the partial sale tool, which would become the preferred resolution strategy in its resolution plans (the "Plan A"), as well as the bridge institution tool, which would become the alternative strategy ("Plan B"), in cases where a direct sale to a private sector buyer is not feasible.

The revision of the LRIF in June 2024 inserted statutory provisions on a resolution funding mechanism, given Comorian banks' weak internal capacity for loss absorption and recapitalization. In the event of a resolution, the Treasury can provide temporary resolution funding, at the request of the BCC, to enable the execution of resolution measures. After providing funding to support resolution measures, the state can collect contributions from the financial sector that has benefited from financial stability. The mission proposed a methodology/tool for calculating ex post contributions from financial institutions adapted to the financial system of the Comoros (an Excel tool is included in the Appendix VII). The methodology and tool establish the calculation of ex-post contributions to ensure that resolution funding costs are borne primarily by the financial industry. The mission also proposed a schedule for notifications to financial institutions, a template for notifications, and listed the elements to include in the implementing texts that the authorities should adopt prior to any resolution to make the resolution funding mechanism operational.

In addition to this ex-post funding mechanism, the BCC Governor asked the mission during the visit to Moroni to propose a prefunded resolution fund option. Such prefunded resolution fund may benefit from external financing (in particular loans or grants) in addition to contributions levied on the financial sector. The report presents the advantages and disadvantages of a prefunded resolution fund in the Comoros.

The report discusses the implementation of the liquidation power established by the revision of the LRIF according to the DRRB's preference and several additional operational issues raised by the DRRB during the mission: the criteria for selecting the special administrator (i.e., the administrator in resolution) and the need to specify in more details the conditions to trigger a resolution.

Part II of the report aims to support the BCC's efforts in drafting resolution plans for financial institutions, including the process of assessing the resolvability of each financial institution. The mission concluded by inviting the BCC to start drafting individual resolution plans, using the template in Appendix I. The DRRB should select a bank and prepare a preferred resolution strategy ("Plan A") based on the partial sale tool, excluding NPLs. For the same bank, it should prepare an alternative resolution strategy ("Plan B") based on the bridge institution tool. It should present to the BCC board of directors a first draft resolution plan, proposing resolution tools and estimates of resolution funding needs.

Recommendations

Table 1. Comoros: Key recommendations

Recommendations (Report paragraph No.)	Authority Responsible	Priority	Timeframe 1/
Establish an instrument for the provision of liquidity in resolution (¶4)	BCC	High	NT
Initiate external training for DRRB staff on resolution and crisis management (¶7)	BCC/DRRB	High	NT
Select a bank and prepare a preferred resolution strategy ("Plan A") based on the partial sale tool, excluding NPLs (¶9 and 11-14)	BCC/DRRB	High	NT
For the same bank, prepare an alternative resolution strategy ("Plan B") based on the bridge institution tool (¶9 and 15-17)	BCC/DRRB	High	NT
Test the tool for the recovery of resolution funding using the estimates produced during the preparation of the first draft resolution plan (¶35)	BCC/DRRB	High	NT
Present to the BCC board of directors a first draft resolution plan, proposing resolution tools and estimates of resolution funding needs (¶9)	BCC/DRRB	High	NT
Make sure databases are shared between banking supervision and resolution (¶42)	BCC/DRRB and DSB	High	NT
Adopt the texts on the resolution funding mechanism (¶36)	BCC with Treasury/MinFin	High	MT or before a resolution
Start drafting resolution plans for the other systemic banks (¶9)	BCC/DRRB	High	MT
Draft guidance on additional resolution triggers (¶41)	BCC/DRRB	High	MT
Revise Article 89 of the Banking Law to avoid potentially conflicting provisions in different laws (¶6)	BCC, MinFin	Medium	MT

1/ Near term: < 12 months; Medium term: 12 to 24 months.

Introduction: context, financial sector, financial safety net

1. **Comoros' financial sector is shallow and dominated by deposit-taking institutions.** The financial sector comprises nine deposit-taking financial institutions, including four commercial banks, of which two are domestically controlled and two foreign controlled, four decentralized financial institutions (DFIs), or microfinance, and one financial intermediary (the public corporation SNPSF, under restructuring). These institutions have virtually no liabilities other than deposits and equity, which is relatively simple. Interbank debt is negligible given the near absence of an interbank market and the absence of negotiable sovereign debt or a financial market. Deposits are mainly small deposits from individuals and entrepreneurs or from public entities, such as the university or state-owned enterprises. The BCC does not have in place standing instruments for the refinancing of financial institutions.
2. **The financial system accounts for approximately 35 percent of GDP in terms of balance sheet totals at end-2023.** The market is concentrated – three of the nine financial institutions hold about 65 percent of the system's assets and deposits. The balance sheet of microfinance entities amounted to more than KMF 100 billion at end-2023, representing over 47 percent of the total balance sheet for the financial sector, while commercial banks account for over 43 percent. The SNPSF accounts for the remaining 9 percent and collects transferable demand deposits (postal checking accounts) and passbook savings deposits. Microfinance institutions and the SNPSF are subject to the same prudential rules as commercial banks.

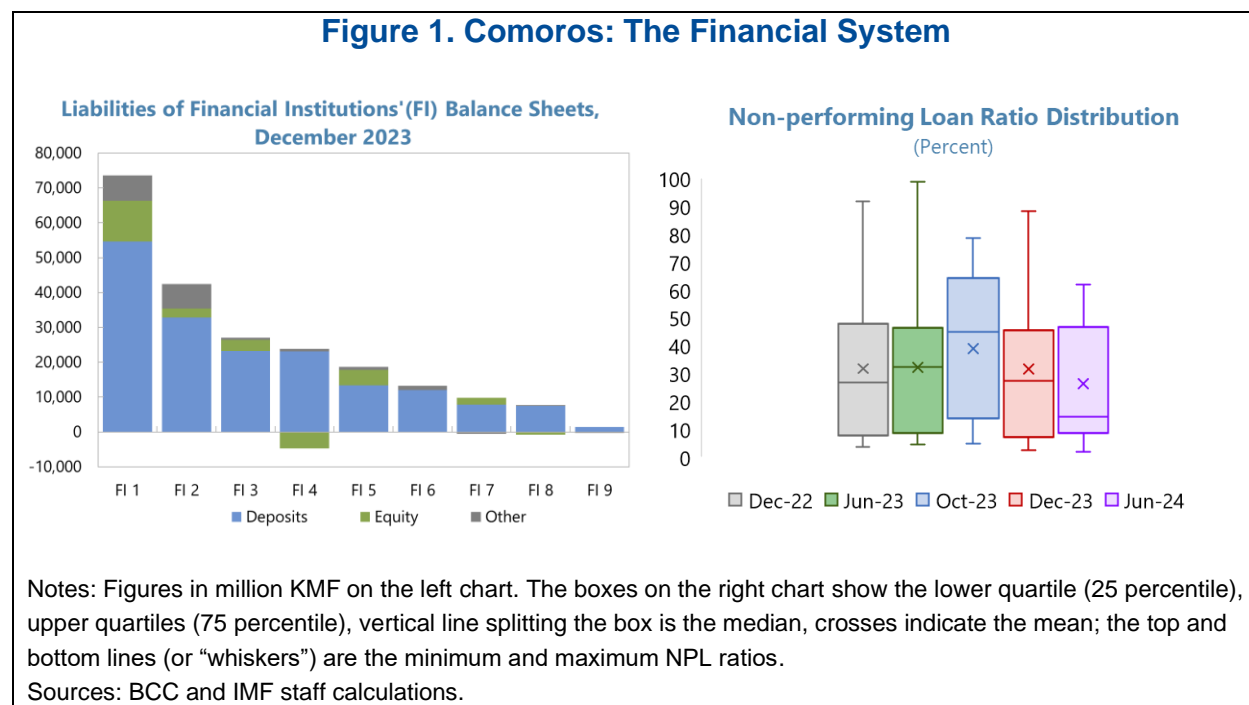
Table 2. Comoros: The Financial System at the end of 2023

	Number of institutions	Total balance sheet (millions of KMF)	Share of total system balance sheet (percent)	Share of GDP (percent)
Deposit taking institutions	9	211,595	100	35
Commercial banks	4	91,911	43	15
- o/w domestically controlled	2	69,495	33	11
- o/w foreign controlled	2	22,416	11	4
Microfinance institutions (DFIs)	4	100,494	47	17
Financial intermediary	1	19,190	9	3

3. **Several Comorian financial institutions are currently experiencing severe difficulties, limiting lending to the real economy and affecting financial asset quality.** Financial institutions face structural impediments that prevent them from adequately monitoring the credit quality of their debtors, enforcing their loans, and enforcing the collateral they receive. Financial institutions have weak underwriting and risk management procedures, often high concentration of credit risk, and shortcomings in the judicial system delay loan collection. Except for the SNPSF, which is being restructured, six of the eight other institutions are loss-making and five are undercapitalized. In terms of asset quality, the nonperforming loan (NPL) ratio is at 14 percent, while the provisioning ratio is at 59 percent. Two

commercial banks were placed under temporary administration in June 2020. One was nationalized in November 2020 and its public administration was terminated in June 2022, while the latter has been under resolution since July 2022.

Figure 1. Comoros: The Financial System



4. **In December 2020, the Union of the Comoros adopted Law No. 20-027/AU on the Recovery and Resolution of Financial Institutions.** The LRIF was produced based on a draft prepared by European experts, funded by the World Bank, drawing on the 2014 European BRRD, with adjustments that considered the environment of Comoros. The LRIF has opened up new possibilities for the Comoros authorities—first and foremost the BCC, which has been designated as the resolution authority—to deal with problem banks, inspired by international standards and good practices in this area. Prior to the adoption of the LRIF, the authorities' options for handling banks that were failing or likely to fail were limited to regulatory forbearance or bail-out. Two commercial banks were placed under provisional administration in June 2020, with the government acquiring ownership of one of them in November 2020. Although progress has been made with the support of several MCM missions on monetary policy implementation¹, the mission recalled the recommendation from the 2021 technical assistance report on the urgency of a liquidity assistance instrument for resolution purposes. The BCC should, as a matter of urgency, establish a mechanism to provide liquidity in the event of a resolution, for example with an ELA facility.

5. **The authorities amended the LRIF in June 2024 following Fund staff's recommendations to improve the SRR on three aspects.** The aim was to respond to the uncertainties or shortcomings identified by the 2021 technical assistance report, with the following three priorities: (i) strengthening the statutory depositor preference, (ii) introducing a resolution funding mechanism, and (iii) giving the BCC the power to liquidate an entity in default. Depositor preference helps reduce the costs of protecting retail depositors, both in countries with deposit insurance and those without (where it can facilitate the

¹ In December 2022, an MCM TA on ELA served essentially as introduction to ELA principles for the BCC. The assessment was that conditions were not met for the BCC to provide ELA to liquidity-stressed banks. MCM also carried out a desk review on the legal basis for ELA in the BCC Law (i.e., a proposal for a new article on that function of the BCC).

preferential disbursement of asset recoveries to depositors; it also enables the transfer of depositors to a healthy institution without running afoul of a “no creditor worse of” (NCWO) safeguard).² The amendments to the LRIF constituted structural conditionality in the Extended Credit Facility (ECF) program with the IMF.³

6. **The manner in which the authorities revised the LRIF can create confusion with an article in the Banking Law that provided for an imperfect form of depositor preference.** The Banking Law (Article 89) provides that in liquidation depositors are reimbursed immediately after judiciary fees and the creditors of super-privileged salaries, up to an amount set by the judicial authority. When the authorities adopted the legislative revisions recommended by IMF staff in June 2024, they revised the LRIF, which now prescribes a general legislative preference of depositors with no upper limit, but they did not amend the Banking Law. IMF LEG TA had suggested to modify the Banking Law directly to avoid any potential inconsistency, which was however not possible for procedural reasons according to the authorities. Until the relevant section of the Banking Law will be deleted, the usage of the newer provision regulating depositor preference in the LRIF can be ensured by means of legal interpretation since the newer provision in the LRIF constitutes *lex specialis* and *lex posterior* vis-à-vis the older provision in the Banking Law and should as such prevail and be applied. It has been agreed with the BCC that, to avoid potentially conflicting provisions in different laws, Article 89 of the Banking Law will be deleted at the next opportunity.

7. **The BCC has followed previous recommendations from Fund staff and created a separate resolution function within the central bank to address conflicts of interest.** The creation of a resolution function in a central bank may create conflicts of interest between some key functions of the central bank (see the 2021 report). The BCC has established a new Directorate of Banking Resolution and Regulation (DRRB), structurally separate from the Directorate of Banking Supervision (DSB), with a separate reporting line to the BCC Board. The DRRB is headed by an experienced and highly qualified banking manager, assisted by a senior legal expert (who assisted in drafting and revising the LRIF), a financial sector expert, and a recent hire. To further strengthen the skills of its team, the DRRB should request training on bank restructuring and resolution and on crisis management, monitor available offers in order to reserve seats as soon as they open.⁴ The mission invited the DRRB to enroll staff on the training offered by the BROCC online course and the physical training offered by the African Training Institute (both in English). The mission shared a translation in French of the MCM paper on building a financial safety net in low-income developing countries.⁵

8. **The DRRB has not yet begun drafting resolution plans or operationalizing its resolution tools and powers.** The DRRB is currently considering the definition of its scope of activities. The DRRB worked several months to adopt a regulation on recovery plans - recovery plans normally fall within the remit of the supervisory function, and this task should eventually be transferred to the DSB. Very positively, the DRRB provides secretariat services for the national committee on NPLs, which was reactivated under the program with the IMF and has achieved results in reducing banks' NPLs. As part of this secretarial task for the national committee, the DRRB has prepared and is starting to implement an action plan on NPLs. This secretariat is a very useful task for the DRRB because the expertise in the recovery of NPLs will support the DRRB's role in preparing resolution plans and monitoring the liquidation of residual banks. The mission also recalled the experiences of countries comparable to the Comoros, which show that an effective credit register is useful to monitor the banking sector, its practices, and risks.

² IMF Policy Paper, "Macroeconomic Developments and Prospects in Low-Income Developing Countries—2019," chapter "The Financial Safety Nets In LIDCs," page 61.

³ The ECF program was approved on June 1, 2023 and has a four-year term.

⁴ <https://www.imf.org/en/Capacity-Development/Training/ICDTC/Courses/BR>.

⁵ <https://www.imf.org/-/media/Files/Publications/PP/2019/PPEA2019039.ashx>

The BCC's credit register could be enhanced to be used for the prevention of NPLs, supporting the DRRB's action plan on NPLs. The BCC should receive by end-2024 and approve the recapitalization plans of all institutions in breach of their capital requirements, in accordance with a structural benchmark in the ECF program, which will require strong cooperation between the DSB and DRRB. The DRRB should now prioritize the preparation of individual resolution plans.

Table 3. Comoros. Financial Soundness Indicators, 2016–2023

	2016	2017	2018	2019	2020	2021(1)	2022(1)	2023(1,2)
Capital adequacy								
Regulatory Capital to Risk-Weighted Assets	20	21	22	28	25	8	11	11
Asset quality								
Non-performing Loans to Total Gross Loans	22	25	24	23	24	17	14	14
Non-performing Loans Net of Provisions to Capital	39	49	41	29	35	23	30	43
Earning and profitability								
Return on Equity	9	-1	0	-1	-8	-1	9	-1
Liquidity								
Liquid Assets to Short Term Liabilities		85	94	89	104	N.A.	N.A.	N.A.
Customer Deposits to Total (Non-interbank) Loans		123	132	135	155	163	136	137

Sources: Central Bank of Comoros (BCC), and IMF staff calculations.

(1) IMF staff estimates and calculations based on Central Bank of Comoros' data. Due to understaffing of the Supervision Department, BCC has not reported FSIs since end-June 2021.

(2) End-December 2023. Non-audited data.

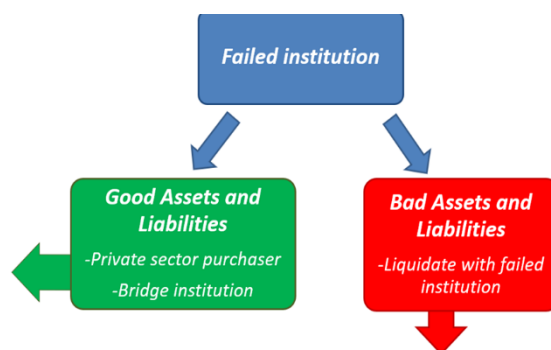
I. Operationalization of the revised resolution law

9. **The BCC should prioritize the resolution tools and powers best suited to the current structure of its banking system.** In particular, the BCC should take into account the limited loss-absorbing and recapitalization capacity of the banks in the Comoros, the small number of staff with the requisite skills in the BCC, the unpredictability of local court decisions⁶ and other shortcomings in the judicial system that hinder the realization of guarantees held by banks. Applying the principle of proportionality, the mission recommended to operationalize partial sale and bridge tools as a priority. Thus, in the short-term the DRRB should select a bank and prepare a preferred resolution strategy ("Plan A") based on the partial sale tool, excluding NPLs. For the same bank, it should prepare an alternative resolution strategy ("Plan B") based on the bridge institution tool. It should present to the BCC board of directors a first draft resolution plan, proposing resolution tools and estimates of resolution funding needs. In the medium-term, using the experience gained through the first resolution plan, the DRRB should start drafting resolution plans for the other systemic banks.

A. Two Priority Resolution Tools: Partial Sale and Bridge Institution

10. **The tool of transferring assets and liabilities to an existing institution is generally recognized as highly effective.** This is especially true for small institutions for which the identification of potential acquirers is less complex. Under this tool another bank takes over all, or part, of the deposits together with "good" assets of the defaulting entity. Thus, depositors maintain uninterrupted access to their deposits and payment transactions. In many jurisdictions, the competitive environment means that other banks are encouraged to make offers to acquire deposits, as this is a relatively cheap method of increasing their market share or entering the market.

Box 1. Comoros: Using Transfer Powers to Achieve Orderly Resolution of Failed Banks ("good bank - bad bank")



11. **As a matter of priority, the BCC should focus on operationalizing the partial sale instrument, which should become the preferred resolution strategy ("Plan A").** The choice between full or partial sale depends essentially on the size and valuation of the portfolio of doubtful assets or NPLs. A full sale of the bank in default may seem like a simpler solution in theory, but it requires finding a

⁶ For example, following the two provisional administrations of June 2020, former managers obtained in the first instance financial compensation under labor law, whereas bank managers are not subject to labor law.

buyer willing to take the entire NPL portfolio of the failing bank, which in practice is difficult, as the Comoros authorities have experienced. A partial sale makes it possible to transfer only the good loans and those deposits that the resolution authority wishes to preserve, which tends to be more attractive for potential buyers. Another advantage of the partial sale is that the buyer does not assume any contingent liabilities, including litigation risks, of the defaulting bank. Only an expert (including the banking supervisor) with knowledge of the local credit market and of a particular bank's NPL portfolio can ascertain ex-ante whether it is advisable to opt for a full sale. If a total sale is not realistic, the partial sale tool must be prepared.

12. **Ideally, in the interest of healthy competition, the sale of the defaulting bank should be open to as many potential buyers as possible, including domestic financial entities that are larger than the defaulting bank, or foreign entities.** In smaller jurisdictions such as the Comoros, where the financial system is small, it is difficult to ensure the confidentiality of the search process for a buyer of a troubled bank. The head of the resolution function could consider approaching informally the country's largest institutions or potentially interested foreigners to gauge their potential interest in acquiring a troubled bank if the possibility was to materialize. The fact that the Comoros has several entities that are notoriously weak may provide a good opportunity for informal discussions with healthy institutions about their potential interest in acting as potential buyers. While such discussions will need to remain high-level (no confidential information may be disclosed in those talks), any insights gathered by BCC staff may aid subsequent marketing efforts in the context of the preparation of an actual resolution—at which time interested institutions will be asked to sign a robust confidentiality agreement. Non-interested institutions should be advised to not say anything about the occurrence of such discussions.

13. **The potential buyer should have the opportunity to conduct due diligence on the defaulting bank.** Care must be taken, however, to ensure that this due diligence remains confidential to avoid sending negative signals to depositors. The potential buyer must, therefore, have signed a legally sound and robust confidentiality agreement before any due diligence steps are being taken. The exercise of “due diligence” will allow the potential buyer to review key information about the bank, including its loan portfolio and deposit book which are needed to estimate the value of the bank franchise (“franchise value”) and prepare their takeover bid. The potential buyer should be given adequate review time, keeping in mind the urgency of the resolution process.

14. **The 2024 legislative revisions contain two key improvements that will allow for a more effective implementation of the partial sale tool.** First, the resolution authority has access to a resolution funding mechanism to, where appropriate, bridge the gap between the value of transferred assets and the value of transferred liabilities (see the Section on the resolution funding mechanism). Second, the BCC has the legal capacity to liquidate the failing institution once part of its performing assets and liabilities have been transferred to a third-party buyer. The question was also raised as to whether a decentralized finance institution—as there is a large one in the Comoros—could buy a commercial bank, considering the specific regime and articles of association of decentralized finance institutions. A draft revision of the banking law provides for clarification of this possibility. Any concerns about a potential takeover of an entire bank by a DFI, where the bank would then become a subsidiary of the DFI, could potentially be alleviated through the transfer of a carefully selected set of assets and liabilities.

15. **Only if there is no buyer willing to participate in a partial sale, and if it is considered that liquidation could pose financial stability risks, a bridge institution may be created.** A bridge institution is created to continue the viable business and critical functions of the defaulting bank (e.g., deposits) until a private buyer is found to take over those activities. Using the bridge institution tool, the resolution authority can transfer from the defaulting bank to the bridge institution the “good assets” (including performing loans) and part of the liabilities (notably deposits that, for financial stability reasons, the resolution authority does not wish to leave in the entity to be liquidated). These assets and liabilities

are then transferred to a temporary bridge institution, whose capital is held by the state, and the residual failing bank is placed in liquidation, with the resulting losses absorbed by former shareholders. The bridge institution can then be offered for sale to private buyers as soon as there are expressions of interest for it. Since the bridge institution is a new legal entity, different from the bank in default, it does not carry the contingent or hidden liabilities of the bank in default (e.g., off-balance-sheet commitments or legal disputes against the bank in default). The mission provided in Appendix II a template decision on transfer to a bridge institution to serve as the basis for the DRRB's work.

16. **The LRIF provides that the bridge institution has a lifespan of up to two years, which may be extended for one year (Article 44).** This limit is in line with good resolution practices. It is also good practice for a bridge institution to have a clear shareholding structure, sound governance, and to comply with regulatory capital requirements. The revised LRIF requires that a realistic exit plan be drawn up so that the state participation is transferred to the private sector as soon as this is economically and financially feasible (Article 35.1 of the revised LRIF). Such exit plan could specify a timeline of actions to be carried out if the bridge institution enters a third year of operations without a private sector purchaser, for instance: (i) the downsizing of the bridge institution operations to prepare its liquidation at the end of the three year period; or (ii) the extension of the lifespan of the bridge institution by amending the law, with a report to the legislator on the unsuccessful attempt(s) to sell the bridge institution and an estimation of the costs on public finances if the bridge institution is prolonged.

17. **The operationalization of the bridge institution tool requires additional clarifications from the BCC and the MinFin/Treasury.** The BCC has the power to establish a bridge institution and to take the decision to transfer to it all or part of the assets, liabilities, and off-balance-sheet items, as well as shares or other securities of an institution that is subject to resolution (Article 41). The BCC must issue a bank license to this bridge institution as soon as possible, approve its articles of association (Article 41), appoint the members of its board of directors and senior management (Article 43). The time horizon over which these decisions will have to be taken and implemented, following the failure of the sale process, is left undefined. This means that the BCC must continue its efforts to operationalize the bridge tool drawing on the sequence of resolution actions prepared with the mission. The mission emphasized that the BCC should not become a shareholder of the bridge institution, or participate in its capital, in view of the associated conflicts of interest with its other tasks—in particular, being the resolution authority and the supervisor of financial institutions. The BCC should therefore discuss with the MinFin/Treasury to clarify the composition of the capital of a bridge institution and to operationalize the procedure for setting it up (e.g., by pre-drafting its articles of association and identifying potential managers that would meet fit and proper criteria).

B. Resolution Funding Mechanism

18. **Resolution tools need a resolution funding mechanism.** By the time a bank fails, or is close to failing, its capital and liquidity will have been seriously eroded. Even if the resolution authority believes that it can trigger the resolution before the bank is insolvent, thus benefiting from a level of capital that is still positive, a resolution funding need larger than initially anticipated may be revealed by the independent Valuation 2,⁷ or by the disclosure of adverse transactions previously unknown to the authority. Some form of resolution funding mechanism is then necessary to make resolution measures effective; for example, to support the transfer of deposits to a buying bank if the amount of loans transferred is significantly lower than the amount of deposits transferred, or to capitalize a bridge institution.

⁷ Resolution valuations were defined in the previous TA report.

19. **Comoros does not have a resolution fund or a prefunded deposit guarantee scheme.** The revision of the LRIF includes provisions for a resolution funding mechanism, given Comorian banks' weak internal capacity for loss absorption and recapitalization. In the event of resolution, the Treasury can provide temporary funding, at the request of the BCC, to support the execution of resolution measures. A funding mechanism with ex-post recovery of public costs from the financial sector is the most appropriate form given the current situation in Comoros.⁸

20. **This temporary funding is subject to strict conditions to minimize the use of public funds and protect taxpayer funds:** (a) necessary to preserve financial stability in the Comoros, (b) implementation of resolution measures best suited to achieving the resolution objectives, (c) unavailability or exhaustion of private funding sources, (d) allocation of losses to shareholders and, if possible, to holders of subordinated debt, and subsequently to other creditors who are not entitled to preferential reimbursement.

21. **After providing funding to support resolution measures, the state can collect contributions from the financial sector as the sector has benefited from financial stability.** The total target level of contributions to repay the Treasury is set at the amount used to finance a financial institution's resolution measures. The total target level of contribution will be formally established by the central bank/MinFin/Treasury (it is not for the mission to determine which national authority will be in charge of this function, and there is no international standard on who should carry out this task). The total target level of contributions will be reduced by the amount distributed to the Treasury as creditor upon the closing of the liquidation of the financial institution under resolution. The total target level of contributions will also be lowered in case of exceptional external contributions specifically made to the Treasury to reimburse the exceptional temporary resolution funding (e.g., loans or grants from technical and financial partners).

22. **The mission proposed a method/tool for calculating ex post contributions from financial institutions adapted to the Comoros' financial system.** The methodology and tool calculate contributions ex post, to ensure that the costs of resolution funding are primarily borne by the financial industry. Ex-post contributions are set in proportion to the balance sheet size of each financial institution. These contributions are a series of annual payments to be made over a predetermined number of periods. The amount of each financial institution's annual contribution is reviewed annually to take into account changes in the institution's size or risk profile. Calculations reflect changing dynamics of the financial system. For example, since the balance sheet is used to represent an institutions' share in the financial system, if the balance sheet of an institution increases or decreases, the calculation of contributions is updated, and the contributions amount is adjusted.

23. **The calculation of ex post contributions requires the determination of several parameters:**

- The total target level
- The number of contribution periods
- The annual target level
- The base for individual contributions

24. **The total target level** corresponds to the total amount of resolution funding provided by the state. The total target level is distributed - with annual capitalization - over the number of periods to obtain the

⁸ Annex IX contains the decision which imposed a financial sector levy in Ghana in 2021 following public funding provided by the government of Ghana to restructure the financial sector.

annual target level, allowing annual contributions to be distributed proportionally among the contributing institutions, before taking into account any temporary carryovers (see below on carryovers).

25. The number of contribution periods (in years) over which the total target level is distributed is used to set the annual target level of contribution. The larger the amount of resolution funding, the greater the number of periods. The number of periods allows for calibration so that annual target levels are bearable by the financial system. The number of periods should be calibrated by the BCC/DRRB in regard to the impact on the institutions' annual results.⁹ A calibration based on the impact of contributions over the first year should be sufficiently realistic in Comoros.¹⁰ Based on the results of this calibration, the BCC may propose the number of contribution periods to be set out in the decision submitted to the President (for example, 10, 15, 20 years, possibly more given the low profitability of the financial system in the Comoros).

26. The annual target level represents the annual contributions from all financial institutions. For year 1, it is given by the formula:

$$C_1^a = \frac{1}{n} \times C_1^{total}, \quad (1)$$

where C_1^a is the target level of contribution in year 1, C_1^{total} is the total target level of contributions, and n is the number of periods over which contributions are spread.

For the following year, $t + 1$, where $t \in [1, n]$, the annual target level of annual contributions is calculated by applying capitalization as follows:

$$C_{t+1}^a = C_1^a \times (1 + r_{t+1})^{t+1}, \quad (2)$$

where r_{t+1} is the interest rate in $t + 1$. For periods $t + 1$, starting from year 2, an interest rate is applied to reflect the time value and opportunity cost of money. This rate usually reflects the rate of inflation and the risk-free rate of return. An initial proposal, considering the absence of financial markets in the country, is to use the central bank interest rate but the authorities may prefer another reference rate, more relevant according to the Treasury or to address the risk of conflict of interest with the monetary policy function of the BCC.¹¹

27. The base for individual contributions consists of the liabilities on the balance sheet of each financial institution minus that institution's capital.¹² The liabilities base on the balance sheet reflects the fact that resolution funding arises from the need to sustain liabilities. The base deducts capital so as not to discourage capital accumulation.¹³ The DRRB prefers to deduct accounting capital instead of regulatory capital given that data on regulatory capital is not always good for some small DFIs. In the context of Comoros, the balance sheet is considered the most appropriate basis because these data are available, simple to use, and reflect the relative size of an institution in the financial system. It also reflects

⁹ It is important to take into account the pro-cyclical impact that contributions can have on the financial position of member institutions ([European Banking Authority, 2023. Guidelines on methods for calculating contributions to deposit guarantee schemes, EBA/GL/2023/02.](#))

¹⁰ The calibration estimated over several years would be too complex to carry out as it would have to incorporate the annual interest, applicable from the second year of contributions, and the changes in the individual balance sheets of financial institutions (multi-annual forecasts are subject to great uncertainty).

¹¹ [BCC interest rate.](#)

¹² The tool/method in Appendix VII provides the choice between deducting accounting capital or regulatory capital, or choosing that no deduction should be made.

¹³ International Monetary Fund, June 2010. "A Fair and Substantial Contribution by the Financial Sector." IMF Final Report for the G-20.

*systemic importance*¹⁴: larger institutions, critical to the financial system, will have higher contributions. A prorated distribution of the annual target level is applied based on each institution's contribution base. The contribution base is $(B_{i,t} - FP_{i,t})$.

28. **An institution's relative weight in the financial system determines its share of the annual contribution.** The weight of an institution is equal to the share of this institution in the total base of the financial system $(\sum_1^i [B_{i,t} - FP_{i,t}])$:

$$p_{i,t} = \frac{B_{i,t} - FP_{i,t}}{\sum_1^k [B_{i,t} - FP_{i,t}]}, \quad (3)$$

where $p_{i,t}$ is the weight of institution i in t , $i \in [1, k]$, and k is the number of contributing financial institutions, $B_{i,t}$ is the liabilities on the balance sheet of institution i , and $FP_{i,t}$ is the capital of institution i in t . In case the capital of institution i is negative, no deduction is made.

29. **The weight of each institution is used to distribute the annual target level among institutions and obtain the annual contribution due by each institution.** The annual contribution payable by an institution is equal to:

$$C_{i,t}^a = p_{i,t} \times C_t^a, \quad (4)$$

where $C_{i,t}^a$ is the annual contribution of institution i for the year t .

30. **This method of annual rebasing has advantages for adjusting contributions to changes in the financial system.** The rebasing method takes into account possible changes in the features of the financial system, such as changes in market share, market entrants and market exits, and facilitates the correction of errors (if they occur). The rebasing method implies that the calculation of ex-post contributions from financial institutions is repeated each annual period with financial data from the previous year, applying the interest rate corresponding to the respective year. If an institution enters the financial system following the granting of a license, it should be required to pay a contribution in proportion to the length of time it has been in the system. The rebasing takes into account the entry of a new institution into the system: its weight is calculated on a prorated basis according to the number of months during which it was licensed, and the weight p_i of the new entrant enters into the calculation of contributions, along with the other existing institutions. The same applies in the event of market exits (withdrawal of license).

31. **Reference date of the data.** Contributions are calculated based on: (1) the balance sheet and capital from the reference period, which is the last audited reporting period (as of December 31 of the previous year); (2) the amount of resolution funding to be recovered (also known as the "total target level"), and (3) the interest rate.

32. **The LRIF provides for the possibility of carryovers of annual contributions for institutions in financial difficulty.** Carryovers allow an institution to benefit from a forbearance period for an annual contribution, but they should not change the final distribution of the burden among contributing financial institutions at the end of all contribution periods. Some institutions may be exempt from contribution for a period (one year), for example, if an institution records a loss during the current year. In this case, it is possible for the BCC to defer the contribution of this institution to the following year, with an interest rate applied on the deferred amount, corresponding to the interest rate applied in the following year, until the actual time of payment of the contribution. Another case of deferral could be added when the payment of

¹⁴ According to the FSB Key Attributes, a bank is systemically significant or critical if its failure could lead to a disruption of services critical for the functioning of the financial system or real economy ("Systemically significant or critical").

the annual contribution would result in a negative profit for an institution: a partial contribution can then be applied, where the institution contributes up to the amount reducing the annual profit to zero. The difference between the annual contribution due and the partial contribution paid gives the deferred amount, carried forward to the next period with the interest rate corresponding to the next period applied to the deferred amount. Contributions may be deferred for consecutive years. The total number of years of contributions does not change for the institution, which means that the burden of contribution(s) for the coming year(s) will accrue.

33. **A detailed monitoring of collections is required for each individual institution.** The method and the tool in Appendix VII take into account the stocks of contributions historically paid by each institution and make it possible to monitor the contribution still to be paid.

34. **The mission proposed a schedule for notifications to financial institutions.** The Central Bank/Ministry of Finance/Treasury will notify the contributors of the calculated individual contributions amounts for the current year by October 1, as well as any carryovers of contributions from previous years. Financial institutions are required to pay contributions by the deadline of March 31 (of the following year), the date suggested by the BCC as the most suitable date for Comorian financial institutions. Financial institutions may come back with questions or disputes, they may request a carryover or may notify errors in the data, which may result in a recalculation of contributions. After March 31, no objections can be made. A template notification form is attached in Appendix VI.

35. **An Excel method/tool attached in Appendix VII can be used to calculate the ex post contributions from financial institutions.** The DRRB should test the tool for calculating and monitoring ex post contributions to resolution funding, using the estimates of resolution financing needs that it will produce when it drafts its first resolution plan implementing the recommended resolution tools (partial sale and bridge bank).

Table 4. Comoros: Example of calibration (impact assessment) for calculating ex-post contributions

For the purposes of this example, a resolution is initiated for one institution and the resolution funding amount is KMF 4,500 million. The data on the balance sheet and capital of financial institutions are at end-December 2023, the interest rate is assumed to be fixed for the entire number of contribution periods at 3 percent, and to be the same for deferred amounts.

The calculation of annual contributions implies that, in the first year, only two institutions, representing respectively 33 percent and 21 percent of the system in terms of contribution base, actually make annual contributions. The remaining seven have deficits at end-2023 and their contributions benefit from carryovers.

Case 1. The number of recovery periods is calibrated to 10. The future value of the amount of resolution funding, estimated at KMF 4,500 million in the first period, is equal to KMF 5,300 million. The first period is used for the impact study. The annual contribution of the first contributing institution is 149 million; that of the second contributing institution is 95 million.

Case 2. The number of collection periods is calibrated to 20. The future value of the amount of resolution financing, estimated at KMF 4,500 million in the first period, is equal to KMF 6,220 million. The first period is used for the impact study. The target contribution of the first contributing institution is 74 million; that of the second contributing institution is 48 million.

36. **After determining the parameters of the resolution funding mechanism, in particular the number of contribution periods from the financial sector, the authorities should adopt the**

implementing texts incorporating the chosen parameters. The mission listed the elements to be included in the implementing texts that the authorities will have to adopt before any resolution is carried out, to make the resolution funding mechanism operational: a draft decree of the President of the Union of the Comoros and a Memorandum of Understanding between the BCC and the Treasury (see Appendices IV and V). The legal form of the implementing texts and their respective issuing authorities are the result of the political choices made by the Comorian authorities at the time of adoption of the revised LRIF in June 2024.

37. **In addition to this ex-post funding mechanism, the BCC governor asked the mission to propose a prefunded resolution fund option.** Such prefunded resolution fund may benefit from external financing (in particular loans or grants) in addition to contributions levied on the financial sector. Box 2 presents the advantages and disadvantages of a pre-funded resolution fund in the Comoros.

Box 2. Comoros: Advantages and Disadvantages of a Pre-funded Resolution Fund in the Comoros
<p>Advantages</p> <ul style="list-style-type: none"> ▪ The Excel tool proposed by the mission can also be used to calculate/collect ex-ante contributions: simply replace the "total target level", which corresponds to the total amount of resolution funding actually paid by the Treasury, with the "target" determined for the pre-funded resolution fund. ▪ The fund may receive external financing sources (such as loans or grants). ▪ In addition, the pre-funded fund may receive temporary funding from the Treasury if, at the time of resolution, it does not have sufficient financial capacity. This temporary funding from the Treasury will then be recovered from the financial sector, similar to the ex-post funding mechanism. ▪ The institutions under resolution will have made financial contributions to the fund (which is not the case with an ex-post funding mechanism).
<p>Disadvantages (these disadvantages are not absolute obstacles, it is ultimately up to the Comorian authorities to make political choices)</p> <ul style="list-style-type: none"> ▪ The law needs to be amended: the LRIF does not provide a legal basis for the creation of a fund and the imposition of ex ante contributions.¹⁵ ▪ The Comorian authorities would have to determine a target level for the fund in order to calculate the ex-ante contributions (under the ex-post funding mechanism, the target level is determined by the resolution funding paid by the Treasury). There is no benchmark for such target level (the targets levels of pre-funded fund in advanced economies or in the WAMU are not relevant examples for Comoros).¹⁶ ▪ A policy should be established for investing the money received by the fund pending use for resolution. Investments in risk-free and highly liquid assets are required (as the money must be immediately available to support a resolution). This freezes financial resources that could otherwise be invested in the domestic economy. ▪ A new structure for the fund (with the operating costs attached) is needed.

¹⁵ Interpretation of the revised LRIF confirmed by LEG.

¹⁶ See Oana Croitoru, Marc Dobler, and Johan Molin: "Resolution Funding: Who Pays When Financial Institutions Fail?", p. 16 ("Establishing Ex Ante Resolution Funds").

C. Power of Liquidation

38. **The power to liquidate the failing bank was added by the revised LRIF to the powers available to the BCC in resolution.** The exercise of resolution powers can now be accompanied by the initiation of bankruptcy/liquidation proceedings for the bank in resolution, in particular to liquidate the residual part of the failing bank. The authorities followed the recommendations of Fund staff and adjusted the LRIF to provide for a BCC power to liquidate a bank following the execution of resolution measures (Art. 65.1 entitled "Liquidation powers", revised LRIF).

39. **The BCC prefers to delegate the role of liquidator of residual banks to a professional.** Theoretically, the Comoros benefits from the existence of a general court-ordered liquidation regime through the application to the Comoros of the Uniform Act Organizing Collective Proceedings for the Clearance of Liabilities, issued by the Organization for the Harmonization of Business Law in Africa (OHADA). In practice, however, the country has had no experience of applying judicial liquidation to a (non-bank) corporation in recent years. Since the LRIF refers to OHADA provisions unless there is a contradiction with the LRIF, the BCC should be able to find liquidation experts in French-speaking countries applying OHADA. The core powers provided to the liquidators in the case of a bank liquidation should not depart significantly from the liquidators' powers in a typical corporate insolvency proceeding. Such powers usually include the following: (i) prepare the payment of the insolvency's debts and preserve the rights of the insolvent; (ii) prepare and present the insolvency accounts to the judge and bodies representing the creditors; (iii) represent the insolvent estate in all legal acts; (iv) verify and rank claims; (v) sell and choose the method of selling the assets of the insolvent estate; (vi) pay creditors; and (vii) draw up an insolvency plan, among other acts. The deadlines provided for in the OHADA Act, in particular for the closure of liquidation proceedings (Article 170 of the OHADA Uniform Act), will help to prevent the cost of the liquidation from exceeding the value of the assets. The expertise in the recovery of NPLs built by the DRRB through its other tasks on NPLs will make it easier to monitor the liquidator's activities.

D. Other Operational Aspects of Resolution

39. **The DRRB raised several additional operational issues during the mission:** the criteria for selecting the special administrator (i.e., the resolution administrator) and the need to specify the conditions that must be met to trigger a resolution. The mission adds some clarifications on a good allocation of the work between the supervision and resolution functions when a new resolution division is established within the same central bank.

40. **The mission considers that the criteria for selecting the special administrator set out in Article 23 of the LRIF are sufficient.** The article states: "In appointing administrators in accordance with the provisions of paragraph 2 of the article the Central Bank of the Comoros shall consider criteria of good repute, qualification, availability, and independence, and apply, where applicable, the provisions applicable to the appointment of directors of financial institutions and/or those of Article 12." Thus, appointing as resolution administrator a person with no banking experience would be clearly contrary to the LRIF. If the BCC wished to add additional criteria, Art. 79 LRIF allows this by a decree of the President. The mission shared that in countries with a small sector, where skills are scarce, there is a practice that to appoint a central bank executive (sometimes a senior executive) as administrator of the bank in resolution in order to prepare and then implement resolution/restructuring measures.

41. **There is no urgency to further specify the conditions to trigger a resolution.** The conditionality set out in the Comoros' ECF program makes it easy to meet the conditions to trigger the resolution of those financial institutions that are currently weak. The fulfilment of the conditions for triggering a resolution is facilitated by the following steps in the existing program conditionality: (i) request

for time-bound recapitalization plans for financial institutions that do not meet the minimum solvency requirements (which are conditions for the authorization and the exercise of banking activity), with a deadline for compliance; (ii) once the deadline has elapsed, it will be possible to initiate a resolution procedure since the legal conditions are met (Art. 21 LRIF "A financial institution is deemed to be bankrupt or close to bankruptcy when one or more of the following circumstances are met: (a) it no longer meets the conditions for maintaining its license (...)"). Resolving all deposit-taking institutions in breach of capital adequacy requirements, unable to comply with these recapitalization plans, or that are insolvent or unviable, is part of the commitments taken by the authorities under the ECF program.¹⁷ The recapitalization or resolution of such institutions should aim to be completed before the end of the program, in line with the *Operational Guidance Note on Program Conditionality*. In the medium term, the BCC may wish to further specify the other cases justifying the triggering of a resolution, by supplementing the general provisions of the LRIF (Art. 21) with more detailed quantitative or qualitative cases, for example to specify the governance deficiencies of a financial institution that would justify the triggering of a resolution. Art. 79 LRIF allows this to be done by a decree of the President, but these clarifications could also be provided by a public communication from the BCC specifying how it would assess the conditions for triggering a resolution.

42. While the resolution function should be operationally independent from banking supervision, this does not prevent very close coordination and sharing of quantitative and qualitative information between these different functions of the BCC. Establishing clear coordination and information-sharing arrangements between the new resolution function of the BCC and the prudential supervision function is an essential precondition for an effective crisis management framework. Ideally, there should be seamless information sharing and shared databases for the banking supervision and resolution functions within the BCC, including information sharing of bank-specific quantitative (e.g., bank regulatory reporting returns) and qualitative (e.g., supervisory risks scoring of banks) information. In a similar manner, there should be close coordination between the DRRB and the DSB in preparing resolution plans and conducting assessments for systemic banks. While the DRRB would be solely responsible for the execution of resolution actions, coordination is essential to facilitate business sales or bridge banks, ensuring swift licensing prepared by the DSB, and to supervise the execution of effective post-resolution restructuring plans by supervised institutions.

¹⁷ See [IMF Country Report No. 24/212, Memorandum of Economic and Financial Policies](#), ¶16.

II. Drafting of individual resolution plans

43. **This part of the report aims to support the BCC in the drafting of individual resolution plans for financial institutions, including the process of assessing the resolvability of each financial institution.** At the end of the mission, IMF staff advised the BCC to start drafting bank-specific resolution plans, using the Appendix I resolution plan template as guidance. This template follows international standards (KAs and FSB Guidelines) and best practices.

A. Resolution Plan Template Based on Best Practice

44. **The structure of resolution plans should follow existing international standards and best practices.** A resolution plan must facilitate the effective use of resolution tools and powers to preserve critical functions, with the objective of making it feasible for any entity to be resolved, without causing severe disruption and without exposing taxpayers to losses. Resolution plans are not normally made public, and it is difficult to use actual individual plans to refer to good practices. However, the resolution plan template in Appendix I includes all the elements listed below, as recommended by the FSB in its documents on this topic¹⁸:

- 1) A summary of the envisaged resolution strategies and an operational plan for their implementation;
- 2) A strategic analysis of the bank's business model that supports the proposed resolution strategies;
- 3) The conditions for intervention by the resolution authority, describing the conditions required to trigger the resolution procedure; these conditions should consider at least two resolution scenarios: an idiosyncratic scenario (specific to the bank alone) and a systemic scenario (broader crisis);
- 4) Practical options for executing resolution actions, specifying which resolution tools and powers would be adopted in response to each resolution scenario;
- 5) Preparatory actions to ensure that resolution measures can be implemented in an efficient and timely manner;
- 6) Details of any significant impediments to the effective and timely implementation of the plan; and
- 7) Responsibilities in the execution of preparatory measures triggering the implementation of the plan and adopting resolution measures.

45. **The first element of a resolution plan is the strategic analysis of the bank's business model.** The business model's strategic analysis identifies the critical functions the financial institution

¹⁸ KA I-Annex 4 ("Essential Elements of Recovery and Resolution Plans"): <https://www.fsb.org/wp-content/uploads/I-Annex-4-Essential-elements-of-recovery-and-resolution-plans.pdf>

provides to external customers, and the critical shared services that are necessary to operate those critical functions. The strategic analysis of the business model should include the following¹⁹:

- 1) Identification of critical functions related to the legal entities that perform them;
- 2) The actions necessary to maintain these critical functions, including the funding needed to maintain them (see also the Section on the resolution funding mechanism);
- 3) An assessment of the viability of any critical function, line of business, or legal entity that could be separated in a resolution scenario, as well as the impact of such separation on the residual legal entity or group and its viability;
- 4) An assessment of the likely impact of the liquidation of business lines that are not considered critical functions, including the potential impact on clients, financial sector counterparties, and market confidence;
- 5) Significant potential obstacles to an effective separation of these critical functions or lines of business; and
- 6) Processes for determining the value and likelihood of being able to sell critical functions and significant lines of business, operations, and assets.

46. **The resolution plan should develop a preferred resolution strategy (“Plan A”) and an alternative resolution strategy (“Plan B”).** The resolution strategies developed in the resolution plan should be consistent with the resolution tools and resolution powers conferred on the resolution authority by the legislative resolution regime.²⁰ The resolution plan should develop a preferred resolution strategy to carry through each resolution scenario. Under the legislative resolution regime adopted in the Comoros, the preferred resolution strategy will likely be based on the partial sale tool discussed above. If this preferred resolution strategy cannot be implemented—due to lack of time, data, or an acceptable acquirer—the creation of a bridge bank could be a suitable alternative for systemically important banks.

47. **After determining the resolution strategy, the resolution plan should specify how the BCC would apply the resolution tools and powers.** The resolution plan should describe how the resolution authority would implement the recommended resolution tools and powers. Given the very simple structure of most financial institutions in the Comoros, the resolution tools will be applied at the level of a single institution (so-called “single point of entry” strategy).²¹ For financial institutions in the Comoros that are decentralized financial institutions, the resolution strategy will have to take into account their particular structure.

48. **To be effective, a resolution plan must cover, among others, the financial resources needed, as well as measures to ensure operational continuity.** First, the resolution plan should describe the financial resources that would be mobilized by the resolution authority to effect the envisaged resolution strategy. Conceptually, these financial resources can either be internal to the entity (e.g., the conversion of certain liabilities to replenish equity) or external (i.e., through the use of the resolution funding mechanism). Second, the resolution plan must detail the operational continuity of the

¹⁹ “Essential Elements of Recovery and Resolution Plans,” Section 2.3.

²⁰ FSB “Guidance on Developing Effective Resolution Strategies.” https://www.fsb.org/2013/07/r_130716b/

²¹ FSB “Guidance on Developing Effective Resolution Strategies.” https://www.fsb.org/2013/07/r_130716b/

resolved entity, in particular with respect to service contracts for the provision of IT services.²² Third, the resolution plan must determine whether the entity in resolution will maintain all of its holdings in financial market infrastructures (for example, participation in the local payment system) and, if so, how. Fourth, the resolution plan should describe the potential sources of liquidity provision to the resolution entity, without taking for granted that the liquidity will be provided by the central bank or other public entity. Fifth, in the event that the defaulting entity has a large number of financial contracts outstanding, the resolution plan should detail how the stay power on the termination thereof would be implemented.

B. Resolvability Assessment and Removal of Impediments to Resolvability

49. **The BCC should regularly undertake resolvability assessments of, at least, the systemically important entities under its responsibility as resolution authority.** The LRIF provides for an update of the resolution plans every two years (Article 26.a). Periodic resolvability assessments should assess the feasibility of resolution strategies and their credibility in relation to the likely impact on the financial system and the real economy in the event of the failure of the entity concerned. In addition, they can be used to measure the effectiveness of information systems used by financial institutions, including their ability to identify and report their most significant assets and liabilities for resolution planning purposes. The resolution authority should conduct these periodic resolvability assessments in coordination with other relevant authorities and assess in particular (KA 10.2):

- 1) To what extent critical functions can continue to be performed;
- 2) The nature and size of intra-group exposures and their impact on resolution, if they were to be reduced and cancelled;
- 3) The capability of the institution to deliver sufficiently reliable and detailed information in a timely manner to support resolution, whether such information relates to assets or liabilities; and
- 4) Robust cross-border cooperation and information exchange agreements.

50. **Resolvability assessments should be conducted in close cooperation with the institutions concerned (in cross-border situations these should include relevant foreign authorities).** Resolvability assessments and the resulting actions of the resolution authority shall form an integral part of the resolution planning process. The BCC is encouraged to implement a five-step resolvability assessment process²³:

- 1) A qualitative and quantitative assessment by the BCC, of the extent to which the financial institution is resolvable, given its structure and the resolution regime to which it is subject;
- 2) In cases where the institution belongs to a group, is listed on a stock exchange, or operates on a cross-border basis, the BCC shares that assessment with other relevant authorities;

²² KA 11.7: "Firms should be required to ensure that key Service Level Agreements can be maintained in crisis situations and in resolution, and that the underlying contracts include provisions that prevent termination triggered by recovery or resolution events and facilitate transfer of the contract to a bridge institution or a third-party acquirer."

²³ KA, "I-Annex 3: Resolvability Assessments" <https://www.fsb.org/wp-content/uploads/I-Annex-3-Resolvability-assessments.pdf>

- 3) The BCC communicates to the institution the impediments it must address to enhance resolvability;
- 4) The institution and/or one or more competent authorities adopts measures to remove any identified impediments; and
- 5) Re-assessment of resolvability by the BCC as resolution authority.

51. **In the event that the measures proposed by the financial institution do not effectively remove or mitigate the impediments identified, the BCC has several options.** The BCC may (Article 30 LRIF):

- 1) Require the institution to conclude or review intra-group financing contracts or service contracts with a view to maintaining critical functions in resolution;
- 2) Require the institution to limit the maximum individual and consolidated amount of its exposures²⁴;
- 3) Require the institution to provide additional, timely or periodic information for the purposes of resolution;
- 4) Require the institution to dispose of specific assets;
- 5) Require the institution to limit or cease certain ongoing or planned activities;
- 6) Restrict or prohibit the development of new or ongoing activities and/or the sale of new or existing products; and
- 7) Require changes in the legal, economic, or operational structures of the institution, or of any entity directly or indirectly controlled by it, in order to reduce their complexity and make possible the separation of critical functions from other functions through the application of resolution measures.

52. **Over the long term, the BCC should require banks to develop their internal loss-absorbing and recapitalization capacity.** The list of Art. 30 LRIF does not mention the possibility for the resolution authority to require the institution to issue liabilities to increase internal loss-absorbing and recapitalization capacity. The LRIF did not transpose from the BRRD the requirement for banks to have a minimum amount of liabilities that can be used to recapitalize a bank in resolution. The lack of such requirements is appropriate given the current structure of the Comoros' financial system. Over the long term, however, the BCC should require banks, at least those considered to be systemically important, to develop their internal loss-absorbing and recapitalization capacity in order to reduce the risk of having to rely on a publicly funded resolution funding mechanism.

53. **For effective resolution planning, the BCC must be prepared to implement the liquidation of non-systemic banks, requiring a further enhancement of its operational capacity.** Indeed, the LRIF provides that an "institution which is not considered resolvable is subject to the liquidation regime." (Art. 31). Thus, in the case of a bank whose resolvability assessment leads to the conclusion that the

²⁴ This refers to the concept of exposure to credit risk according to banking regulation.

resolution tools could not be implemented effectively, the strategy should be the bank's liquidation. This would be another situation in which the BCC may have to liquidate a bank.

C. Regulatory Statements to Support Resolution Planning

54. **The BCC should rely as much as possible on financial institutions to provide the necessary information to facilitate the preparation of resolution plans (Art. 28).** The resolution authority shall have unhindered access to financial institutions for the purposes of resolution planning and preparation for the implementation of resolution actions. The resolution authority would benefit from establishing in advance reporting obligations for financial institutions (e.g., resolution planning reporting forms) and ensuring that they have in place effective information systems that would enable them to provide timely and reliable information for resolution planning purposes, or in the implementation of resolution decisions.

55. **In practice, the most frequent information requests for resolution planning relate to:**

- 1) Information related to the bank's structure, critical functions, or interconnections (e.g., on intra-group guarantees or credits, or the institution's dependence on other entities in a group for liquidity, own funds, or support functions such as legal, IT, or human resources functions);
- 2) An analysis of the operational consequences of a resolution strategy; and
- 3) A description of the processes to be implemented in order for the resolution authority to have access to particular information when resolution is triggered.

56. **A good practice is to use the resolvability assessment exercise to strengthen the framework around valuations.** Banks must be able to assist with the preparation of valuations by the independent valuer. This means that they should: (i) give the valuer rapid access to data, information, and documents; (ii) facilitate the valuer's access to competent personnel; and (iii) apply models and produce activity forecasts based on assumptions and levels of granularity requested by the valuer. To be able to accomplish these tasks, banks must prepare in advance. A good practice adopted by resolution authorities is to assess and test banks' ability to support valuation exercises as part of resolution planning. The shortcomings revealed may lead the authority to exercise its powers to demand changes in order to improve banks' resolvability (Art. 30).

57. **There is no urgency for adopting a regulation on resolvability criteria in the Comoros.** The LRIF does not specify the criteria for assessing resolvability (Art. 29), but it refers to a regulation to be issued by the BCC. As a first step, the BCC can usefully start working on individual resolution plans and resolvability discussions with institutions, in order to build its expertise. Formal regulations may be prepared later, building on the BCC's ongoing efforts to operationalize its new resolution framework.

Appendix I. Structure of a Resolution Plan for a Systemic Domestic Bank

(Bank not listed on a stock exchange)

1. **Summary** of the resolution strategies envisaged and the plan for their implementation.
2. **Strategic analysis of the business model** of the bank supporting the proposed resolution strategies:
 - Legal structure of the institution/group;
 - Owners/composition of the shareholding;
 - Governance;
 - Balance sheet;
 - Income statement;
 - The most important prudential requirements;
 - Business lines;
 - Critical functions:
 - Article 1 of the Comoros Recovery and Resolution Act: “Critical functions” means activities, services, or operations whose interruption at the level of the Union of the Comoros is likely to cause significant shocks to the real economy or financial stability due to the size or market share of the institution or group, its interdependence, particular attention shall be paid to the substitutability of such activities, services or operations;
 - Internal interdependence;
 - External interdependencies (including shared critical services²⁵);
 - IT systems; and
 - List of financial market infrastructures (payments, securities settlement, clearing house) in which the bank participates.
3. **Resolution scenarios and resolution triggers:** at least two resolution scenarios, an idiosyncratic (specific to the bank alone) and a systemic scenario (broader crisis).
 - Resolution scenarios; and
 - Events triggering the resolution decision.
4. **Preferred Resolution Strategy (“Plan A”) and Alternative Resolution Strategy (“Plan B”).**
 - The Preferred Resolution Strategy is guided by the determination/delineation of critical functions;
 - Loss-absorbing capacity; and
 - Analysis of separability (e.g., separability of the bank’s business units, credit portfolios, a subsidiary).
5. **Financial and operational continuity in resolution**

²⁵ Shared critical services are activities carried out in the bank, or outsourced to a third party, the interruption of which would lead to the inability to continue the critical functions (for example the IT services necessary for the maintenance of deposit accounts and related payment services).

- **Operational Continuity:** in particular, service-level agreements already concluded by the bank with other entities in the same group, or other parties, for the provision of services, including IT services. Operational continuity should be based as much as possible on the business continuity procedures already in place in the bank.
- **Access to financial market infrastructures:** whether and how the bank would maintain this access.
- **Liquidity:** describes potential sources of liquidity to support the bank in resolution. Should not take for granted the provision of liquidity by a public entity, in particular by the central bank – **See Article 25.f LRIF.**
- **Power to “freeze” financial obligations (“stay”)/moratorium:** where the defaulting bank has signed a significant number of financial contracts, the resolution plan should specify how the stay power on early termination of the financial contracts would be implemented.

6. **Information/IT and communication plan**

- Data management/IT systems; and
- Communication framework/communication plan.

7. **Assessment of resolvability**—details of any potential significant impediments to the effective and timely implementation of the resolution plan, following a five-step process:

- 1) **The resolution authority shall carry out a qualitative and quantitative assessment to conclude whether the bank is resolvable, or to what extent it would be resolvable,** looking at its structure and the applicable resolution regime; assessment of the possibility of liquidation under normal insolvency proceedings: credibility (potential contagion if the bank was liquidated) and feasibility (e.g., how would depositors be reimbursed if the bank was liquidated?); and the choice between a liquidation strategy or a resolution strategy.
- 2) **When the bank belongs to a group, or operates cross-border, sharing this assessment with other relevant authorities.** Feasibility and credibility of the resolution strategy (impediments to the resolution strategy).
- 3) **Presentation to the bank of the points on which the bank must act.** Feasibility and credibility of the resolution strategy (impediments to the resolution strategy).
- 4) **Measures adopted by the bank or by the relevant authorities** to remove or mitigate impediments to resolvability (e.g., access to bank information or systems; impediments dependent on other public authorities).
- 5) **Re-assessment of resolvability by the resolution authority.**

8. **Consultation of the bank.** The bank must be able to give its opinion on (a summary of) the resolution plan. The bank’s opinion is part of the resolution plan.

The resolution plan shall be reviewed, updated—if necessary—at least annually, and after each significant change that affects the bank.

Appendix II. Template For Bridge Bank Transfer Decision

Decision on transfer of assets and liabilities of **[Name of institution under resolution]**

Done on [xx.xx.xxxx], at Moroni, Comoros

For entry into force on: [xx.xx.xxxx]

This decision is adopted by the BCC in exercise of the powers conferred by Articles [references to relevant national statutory provisions on resolution].

In accordance with Article [xx] of that law, the BCC is satisfied that— [Name of institution under resolution] fails, or is likely to fail, to satisfy the conditions for authorization as defined by [relevant legislation], for which the BCC is treated as responsible; and having regard to timing and other relevant circumstances it is not reasonably likely that measures will be taken by or with respect to [Name of institution under resolution] that would enable it to meet the [conditions for authorization].

In accordance with Article [xx], the BCC is satisfied that this decision is necessary in light of the public interest considerations specified in [reference to the relevant section of the Law].

In accordance with Article [xx] of that law, the BCC has had regard to the resolution objectives.

Accordingly, the BCC therefore adopts the following decision:

Part 1

General

Citation and entry into force

1. This decision may be referred to as the [Name of institution under resolution] Transfer Decision for assets and liabilities of [date].
2. This decision shall take effect upon the time of transfer.

Definitions:

In this instrument:

"Law" means the [LRIF];

"Bridge Institution" means [Name of Bridge Institution] SA;

"Bridge Institution transfer" means the transfer made under paragraph 3;

"Bridge Institution business" means the assets and liabilities transferred under paragraph 3;

"Bridge Institution relevant assets" shall have the meaning given in paragraph 5;

"Bridge Institution relevant deposits" shall have the meaning given in paragraph 6;

"Deposit" has the meaning given by [reference to the relevant section of local law];

"the BCC" means the Central Bank of the Comoros;

"time of transfer" shall be 8:00 a.m. on [date] and shall be used to refer to the time when the Bridge Institution transfer shall take place pursuant to paragraph 3;

"[Name of institution under resolution]" means [Name of institution under resolution] SA.

Part 2:

Bridge Institution transfer

3. Pursuant to this document, the Bridge Institution relevant assets and Bridge Institution relevant deposits of [Name of institution under resolution] (including brand name) are transferred to the Bridge Institution. They make up the Bridge Institution business.
4. The Bridge Institution transfer takes place at the time of transfer.

Assets and liabilities transferred

5. Bridge Institution relevant assets are [●].

-

-

(...)

6. Bridge Institution relevant deposits are [●].

-

-

(...)

Legal and operational continuity of the Bridge Institution

7. As from the time of transfer, the Bridge Institution shall be considered, for all purposes necessary to give effect to of the transfer, as the same person as [Name of institution under resolution] with regard to the Bridge Institution relevant assets and the Bridge Institution relevant deposits.
8. In accordance with [Article 40 of the LRIF], contracts or other actions entered into by or in connection with [Name of institution under resolution] shall, if they concern the Bridge Institution business or the Bridge Institution relevant assets or the Bridge Institution relevant deposits, be considered as being entered into or carried out by or in connection with the Bridge Institution.
9. Without limiting paragraph 2, any payment received after the time of transfer by or in connection with [Name of institution under resolution] that relates to any account held by or with [Name of institution under resolution] in connection with the Bridge Institution business immediately before the time of transfer, to the extent such account relates to the Bridge Institution relevant assets or the Bridge Institution relevant deposits is to be treated as received by or in relation to the Bridge Institution.
10. An express or implicit reference in a relevant decision or document relating to [Name of institution under resolution] shall have effect as if it were a reference to the Bridge Institution if the reference is in connection with rights and obligations that relate to the Bridge Institution business. A relevant decision or document is one which relates to some or all of the Bridge Institution business.

11. [Name of institution under resolution] and the Bridge Institution may, by agreement, modify any provision of this document to the extent permitted by the [LRIF].

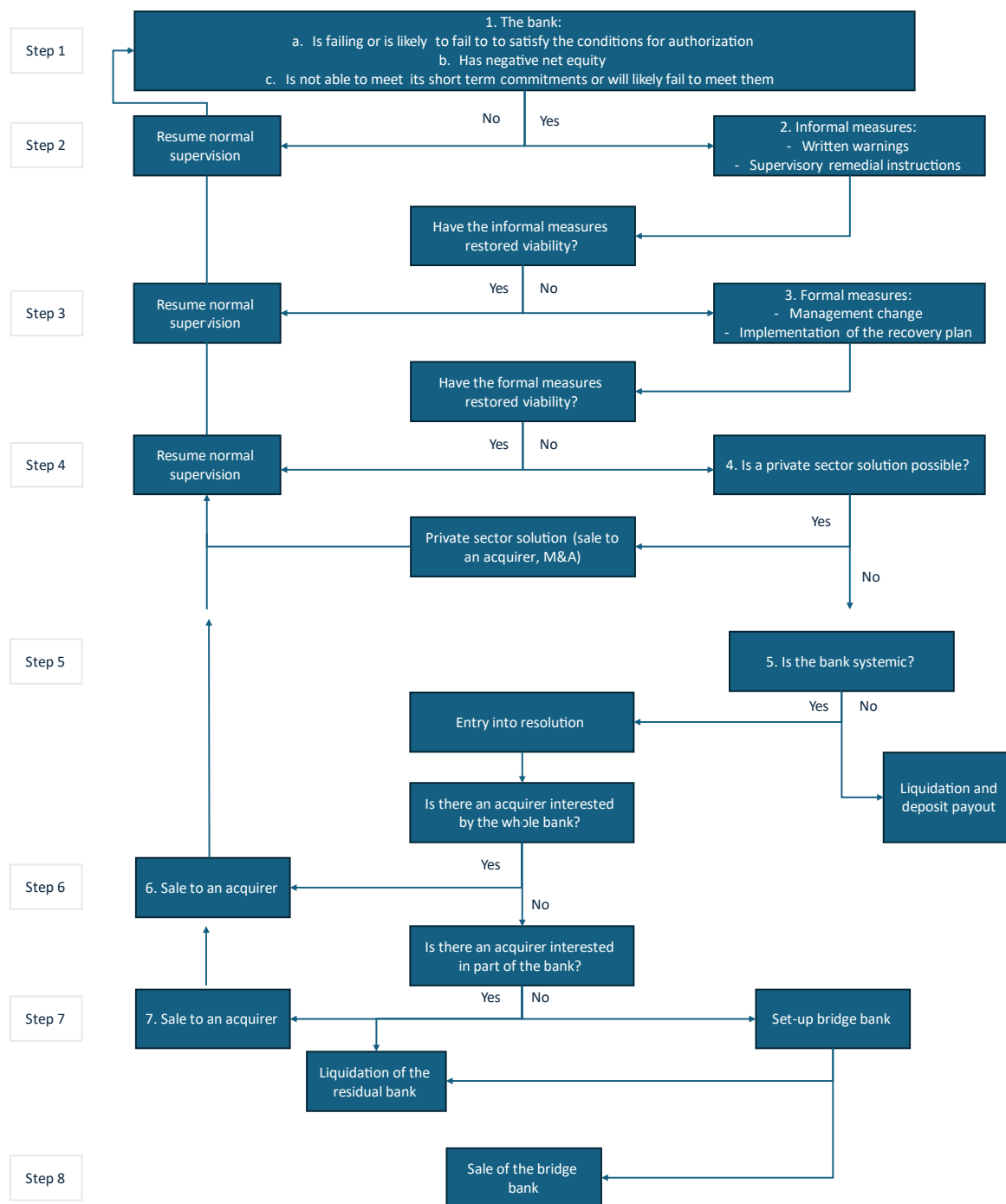
Provision of assistance

12. [Name of institution under resolution] shall provide the Bridge Institution with such information and assistance as is reasonably requested by the Bridge Institution in writing in relation to the transferred business or to the operation of the transferred business; and for any other purpose relating to, in connection with, or in consequence of this document.
13. The Bridge Institution shall provide [Name of institution under resolution] with such information and assistance as is reasonably requested by [Name of institution under resolution] to facilitate the liquidation of [Name of institution under resolution].

Re-transfer powers

14. After the transfer referred to in the foregoing subparagraphs, the BCC may transfer or re-transmit any assets, liabilities, off-balance-sheet items and assets under management between the Bridge Institution and [Name of institution under resolution], within the time limits set out in [the LRIF].

Appendix III. Decision Tree for Resolution Measures



Appendix IV. Elements to include in a draft decree of the President of the Union establishing exceptional contributions of financial institutions for the recovery of temporary exceptional funding of resolution measures

Instruction to provide temporary exceptional government funding

The President instructs the Treasury to provide resolution funding up to [KMF xxx], based on estimates provided by the BCC [1]. Such resolution funding must be used no later than 6 months after this decision or the authorization will lapse.

Total contribution target level and number of annual contribution periods

In return for this exceptional funding, an exceptional contribution is requested from the financial institutions, as part of the collective benefit for financial stability.

The total target level of contributions set by [the Treasury / MinFin / the BCC] at the amount actually used for the resolution measures to repay the Treasury. The total target level cannot exceed the maximum amount set above.

Contributions will be collected over [10/15/20/X] annual periods, beginning the current year.

The total target level of contributions is reduced by the amount distributed to the Treasury as creditor upon finalization of the liquidation of the financial institution under resolution. Total contribution target will also be reduced in case of exceptional external contributions specifically made to the Treasury to reimburse exceptional temporary resolution funding.

The formulas for calculating the annual contributions from financial institutions and the collection methods are set out [in the Annex] / [by a text adopted by the Treasury, MinFin, and BCC]

[1] This approach links the "general funding framework" provided for in Law No. 20-027/AU on the recovery and resolution of financial institutions (LRIF) and the role of the Treasury, it reduces interpretations and will give the greatest legitimacy to each funding.

[in Annex] / [text adopted by the Treasury / MinFin / the BCC]

Formulas for calculating annual contributions from financial institutions and methods of collection

Annual Contribution Target Level

The annual target level, representing the annual contributions from all financial institutions in year 1, is obtained by the formula:

$$C_1^a = \frac{1}{n} \times C_1^{total}, \quad (1)$$

where C_1^a is the target level of contribution in year 1, C_1^{total} is the total target level of contributions, and n is the number of periods over which contributions are spread over time.

For the following year, $t + 1$, where $t + 1, t \in [1, n]$, the annual target level of annual contributions is calculated by applying capitalization as follows:

$$C_{t+1}^a = \frac{C_1^a}{(1+r_t)^{t+1}}, \quad (2)$$

where r_{t+1} is the interest rate in $t + 1$. For periods $t + 1$, from the second year, an interest rate is applied. This rate reflects the inflation rate and the risk-free rate of return.

Distribution of Annual Contributions

A distribution of the target annual level of contributions is prorated based on each institution's individual contribution basis. The individual contribution basis is equal to an institution's total balance sheet liabilities minus capital deduction ($B_i - FP_i$).

An institution's relative weight in the financial system determines its share of the annual contribution. The weight of an institution is equal to an institution's share in the total base of the financial system ($\sum_1^i [B_i - FP_i]$):

$$p_i = \frac{B_i - FP_i}{\sum_1^k [B_i - FP_i]}, \quad (3)$$

where p_i is the weight of the institution i , $i \in [1, k]$, and k is the number of contributing financial institutions, B_i is the balance sheet total of the institution i , and FP_i is the equity of the institution i . In case the institution's equity is negative, no deduction is made. The weight is used to distribute the annual target level among institutions and obtain the annual contribution due by each institution. The annual contribution payable by an institution is equal to:

$$C_{i,t}^a = C_t^a \times p_i, \quad (4)$$

where is the annual contribution payable $C_{i,t}^a$ by an institution i in the year t .

Schedule of Disbursements of Annual Contributions

No later than [October 1] of each year, [the BCC / the Treasury / MinFin] shall inform each financial institution of the amount of its annual contribution due, any carryovers of contributions from previous years, and the amount of the total contribution for the year for the financial sector. The contribution must be paid by the institution no later than [March 31 of the following year], including any carryovers of contributions from previous years.

The financial institution may submit questions or complaints, which may lead to a recalculation of contributions, in particular in the event of an error in declarations or calculation. No rectification or claim or recalculation is accepted after [31 March].

Partial annual period and new entrants or exits

When a financial institution is licensed for part of the contribution period, or when its license is revoked during the contribution period, its weight p_i is calculated in proportion to the number of months during which it was licensed.

Contributions already made will not be reimbursed if a financial institution's license is revoked.

Mechanism for deferring an individual annual contribution

The BCC may request that an institution defer its annual contribution if payment of the contribution would result in bankruptcy, risk of bankruptcy, or failure to comply with capital or liquidity requirements of the institution. For example, if an annual contribution results in a deficit on the institution's income statement for the financial year, bringing it in breach of capital requirements, the annual contribution is deferred.

This deferral is granted for one year but may be renewed. The deferred payment is made at a later date, in addition to the annual contribution for the following year. The deferred amount is capitalized at the annual interest rate applied to the following year's annual target level, until the deferred amount is paid.

Appendix V. Elements to include in the Memorandum of Understanding specifying the modalities of the Treasury funding to support the resolution of a financial institution

[Add Ministry of Finance]

The BCC shall inform the Treasury, at least [three months] prior to the day of the disbursement, of the estimated amount of resolution funding and the method used for calculating the amount of resolution funding.

The BCC provides estimates of the amount of resolution funding. The estimates provided by the BCC may include several scenarios. The BCC provides at least one assessment for a scenario of execution of the partial sale tool (excluding NPLs) and for one scenario of execution of the bridge institution tool (including the provision of paid up capital and compliance with regulatory capital requirements).

The BCC confirms to the Treasury that it has taken the necessary steps to meet the conditions of Art. 35.1 of Law No. 20-027/AU on the Recovery and Resolution of Financial Institutions (LRIF) on the prior allocation of losses to shareholders and, if possible, creditors.

The Treasury deposits the expected resolution funding amount into an account at the BCC.

Appendix VI. Template for Notification to a Financial Institution of its Annual Contribution to Recovery of Resolution Funding

Pursuant to the decree of the President of [xxx] setting the exceptional financial sector contributions to reimburse the exceptional temporary funding for the resolution, the total target level and the number of contribution periods, the annual target level for the total amount of the financial sector contribution for the current year will be: KMF [XXX].

Your institution's annual contribution for the current year is set at: KMF [XXX]

Your quota has been calculated based on the following: [balance sheet – PF]

To this annual contribution is added the amount of carryovers from previous years:

Year	Deferred contribution amount (with interest charged)

Therefore, your total payment due for the current year is: [XXX] KMF

It must be paid no later than [March 31, Y+1], [methods of payment].

If you have any questions or complaints, particularly regarding reporting or calculation errors, please direct them to [xxx].

No rectification, claim or recalculation is accepted after [March 31, Y+1].

Appendix VII. Tool for impact assessment, calculation of contributions, monitoring of contributions

Appendix VIII. Defensive lines for an industry-based resolution funding mechanism

How can a credible resolution regime and the attached resolution funding mechanism be positive for Comorian banks?

A credible industry-based resolution funding mechanism:

- **Helps expands the formal banking system and availability of credit.** By minimizing depositors' uncertainty about the stability of the banks clear rules on resolution funding and a credible resolution regime will increase the appeal of the banking system.
- **Helps ensure fair competition.** A credible resolution regime will contribute to harmonise the cost of banking in the country by exiting banks with an unfair advantage (those not meeting capital requirement have a de facto capital subsidy,
- **Creates incentive for market discipline.** Market discipline will incentivise banks to monitor competitors' behaviour and support the BCC in its supervisory capacity. Insolvent banks have incentives to take on excessive risks to recover asset values which result in negative externalities, this raises the economic costs of resolution later on. Knowing this, healthy banks should push the BCC to intervene weak banks as early as possible.
- **Creates an incentive to acquire failing bank.** Imposing the cost of resolution on the industry creates an incentive for incumbents to acquire failing banks themselves. If all banks are exposed to the financing of resolution, acquiring the bank in default creates a sort of compensation in the form of increased market share / balance sheet.

Appendix IX. The ex post financial sector levy recovery in Ghana in 2021

ARRANGEMENT OF SECTIONS

Section

Imposition of Financial Sector Recovery Levy

1. Imposition of Levy on profit before tax of a bank
2. Application of Levy
3. Levy not an allowable deduction
4. Profits affected by Levy
5. Assessment of Levy payable
6. Payment period of Levy

Administration, Collection and Recovery of Levy

7. Administration of Levy
8. Collection of Levy
9. Payment of Levy into Consolidated Fund
10. Recovery of Levy

Miscellaneous Provisions

11. Regulations
12. Interpretation

FINANCIAL SECTOR RECOVERY LEVY ACT, 2021 Act



REPUBLIC OF GHANA

THE ONE THOUSAND AND SIXTY-SEVENTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED

FINANCIAL SECTOR RECOVERY LEVY ACT, 2021

AN ACT to impose a special levy to be known as the Financial Sector Recovery Levy on banks to raise revenue to support the financial sector reforms and to provide for related matters.

DATE OF ASSENT: 31st March, 2021.

PASSED by Parliament and assented to by the President

Imposition of Financial Sector Recovery Levy

Imposition of Levy on profit before tax of a bank

1. There is imposed by this Act a Financial Sector Recovery Levy of five percent on the profit before tax of a bank.

Application of Levy

2. Despite any provision to the contrary in an enactment relating to a tax holiday or an exemption from a direct tax or an indirect tax applicable to a bank, the Levy imposed under section 1 applies to a bank other than a rural bank or a community bank.

Levy not an allowable deduction

3. The Levy is not an allowable deduction for the purpose of ascertaining the chargeable income of a person under the Income Tax Act, 2015 (Act 896).

Profits affected by Levy

4. (1) The Levy is payable in respect of profit before tax.

(2) The Minister may, at the expiration of the 2024 year of assessment, review the Levy.

Assessment of Levy payable

5. (1) A bank covered under this Act shall submit an estimate of the Levy due for that year of assessment together with the annual income tax estimate of that bank.

(2) Where the bank has not

(a) been assessed for tax in the two preceding years of assessment,
or

(b) furnished

(i) a return or an estimate in accordance with the
Income Tax Act, 2015 (Act 896), or

(ii) a statement of the estimated Levy payable in
accordance with subsection (1)

the Commissioner-General may proceed to make an assessment of the Levy payable by that bank.

Payment period of Levy

6. (1) The Levy assessed for a year of assessment is payable on or before the following dates of each quarter of the year of assessment:

(a) 31st March;

(b) 30th June;

(c) 30th September; and

(d) 31st December.

(2) Despite subsection (1), payment of the Levy for the 2021 year of assessment shall be made in three instalments on or before

(a) 30th June, 2021;

(b) 30th September, 2021; and

(c) 31st December, 2021.

Administration, Collection and Recovery of Levy

Administration of Levy

7. The Commissioner-General shall administer the Levy in accordance with the Revenue Administration Act, 2016 (Act 915).

Collection of Levy

8. The Ghana Revenue Authority is responsible for the collection of the Levy.

Payment of Levy into Consolidated Fund

9. The Commissioner-General shall pay the Levy collected under this Act into the Consolidated Fund.

Recovery of Levy

10. For the purpose of enforcing the payment of the Levy, the provisions of the Revenue Administration Act, 2016 (Act 915) and the Income Tax Act, 2015 (Act 896) relating to collection, enforcement, refund and penalties shall apply to the collection of the Levy as if the Levy is collected under the specified enactments.

Miscellaneous Provisions

Regulations

11. The Minister may, by legislative instrument, make Regulations to provide for the efficient and effective implementation of this Act.

Interpretation

12. In this Act, unless the context otherwise requires,
"bank" means a bank regulated under the Banks and Specialised Deposit-Taking Institutions Act, 2016 (Act 930);
"Commissioner-General" means the Commissioner-General appointed under section 13 of the Ghana Revenue Authority Act, 2009 (Act 791);
"Levy" means the Financial Sector Recovery Levy imposed under section 1; and

"Minister" means the Minister responsible for Finance.

Date of *Gazette* notification: 31st March, 2021.