



BANK RESOLUTION FRAMEWORK FOR OMAN

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Bank Resolution Framework for Oman

ARTICLE 1 : Preamble

1.1. Financial crises come with a very short notice with the danger bells ringing. If unheeded, they appear with a bang holding potential of wide scale damage in the economy. The recent global financial crisis highlighted that the policy makers were inadequately prepared to deal with the failure of large or “too big to fail” banks, and the tools available with them were not sufficient for the orderly exit of such financial institutions even when they became unviable. Due in part to the lack of preparedness and inadequacy of the supportive law, the options available with the regulators - like liquidation creating further chaos or publically funded bail-out - were costly.

1.2. Central Bank of Oman (CBO) is mandated with the task to maintain financial stability. To carry out this duty, CBO is empowered to take all necessary actions, including but not limited to the liquidation, suspension, or administration of financial institutions licensed by it. However, considering the complexity particularly that of larger banks, and undesirable effects of a lengthy liquidation process on financial stability, the usual liquidation of banks may not be the best solution.

1.3. To avoid this undesirable outcome and the associated moral hazard, CBO has been taking ex-ante steps to decrease the probability of failure including adequate levels of regulatory capital buffers, intensified supervision, stringent regulations, and heightened focus on risk culture and management. However, capital increases do not address all issues and have their downside in the form of diminished efficiency and higher intermediating costs.

1.4. In this backdrop, CBO has formulated a Bank Resolution Framework (BRF) for Oman in line with the recommendations of Financial Stability Board which spells out clear standard operating procedures for handling an episode of failure/ resolution of a bank or any other financial institution licensed by CBO

and defines the decision making architecture explaining the responsibilities of each of the units involved.

1.5. The Bank Resolution Framework is a part of the overall regulatory and supervisory architecture of CBO with an aim to prevent a bank/ financial institution to reach the failure or resolution phase in the first place. It triggers prompt corrective actions if the capital conservation buffers are drawn down, or weaknesses in the liquidity, asset quality or other areas of an institutions are noticed; setoff institution-initiated recovery if the institution hits certain thresholds; and eventually if the recovery fails use the resolution toolkit for an orderly exit, without excessive market disruption and ideally without capital support from the government (other than in its capacity as shareholder), while saving critical functions once it is certain that the institution is no more viable.

1.6. Speed of action is the essence in containing the intensity of the negative effects of the resolution of a financial institution. Therefore, a clear-cut process flow, based on the possible triggers and events that might unfold, has been documented. The process flow is given in 'Figure 2', while the governance structure of CBO in the capacity of Resolution Authority is given in 'Figure 1'.

1.7. As per the governance arrangements, supervision of the financial institutions during normal regime rests with the Banking Oversight silo (Banking Surveillance Department for off-site supervision, Banking Examination Department for on-site inspections). The newly envisaged 'Recovery Planning & Monitoring' functions shall be handled by the Banking Surveillance Department (BSD). Whereas, in order to ensure separation of supervisory and resolution functions, "Resolution Planning & Monitoring" shall be carried out by Financial Stability Department (FSD) under the oversight of a "Resolution Committee". The Resolution Committee shall advise H.E., The Executive President of CBO on resolution related matters, while the Board of Governors of CBO or any person appointed by them shall have the authority to exercise resolution powers and adopt & implement resolution measures . The Resolution Committee shall be chaired by a senior member of the executive management of CBO who is not directly responsible for the supervisory functions and shall comprise members from Financial Stability Department (FSD, as member secretary), Economic Research & Statistics Department (ERSD), Legal Department, Payment Systems Department (PSD), and a representative from Bank Deposits Insurance Scheme (BDIS). Nevertheless, this segregation of supervisory and resolution functions shall not hinder flow of information from supervisory departments to resolution

functions. When needed, the resolution functions (Resolution Planning & Monitoring unit and Resolution Committee) may call for data and information from the supervisory functions. Similarly, the Resolution Committee may invite non-members (including those from supervisory functions) in their meetings to seek any information.

1.8. In an internal compendium, the responsibilities of functions in charge of resolution of financial institutions detailing ‘who should do what’, ‘under what situation’ during a resolution event shall be documented in advance to avoid confusion at the material moment.

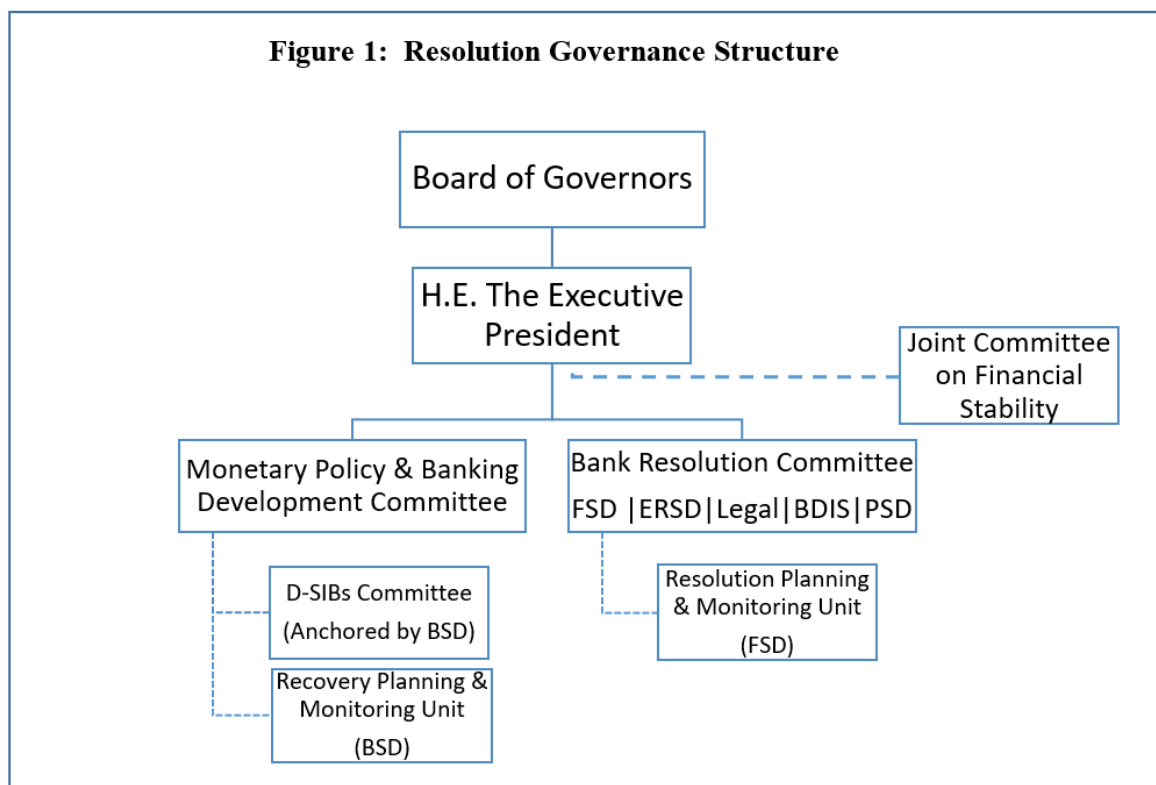
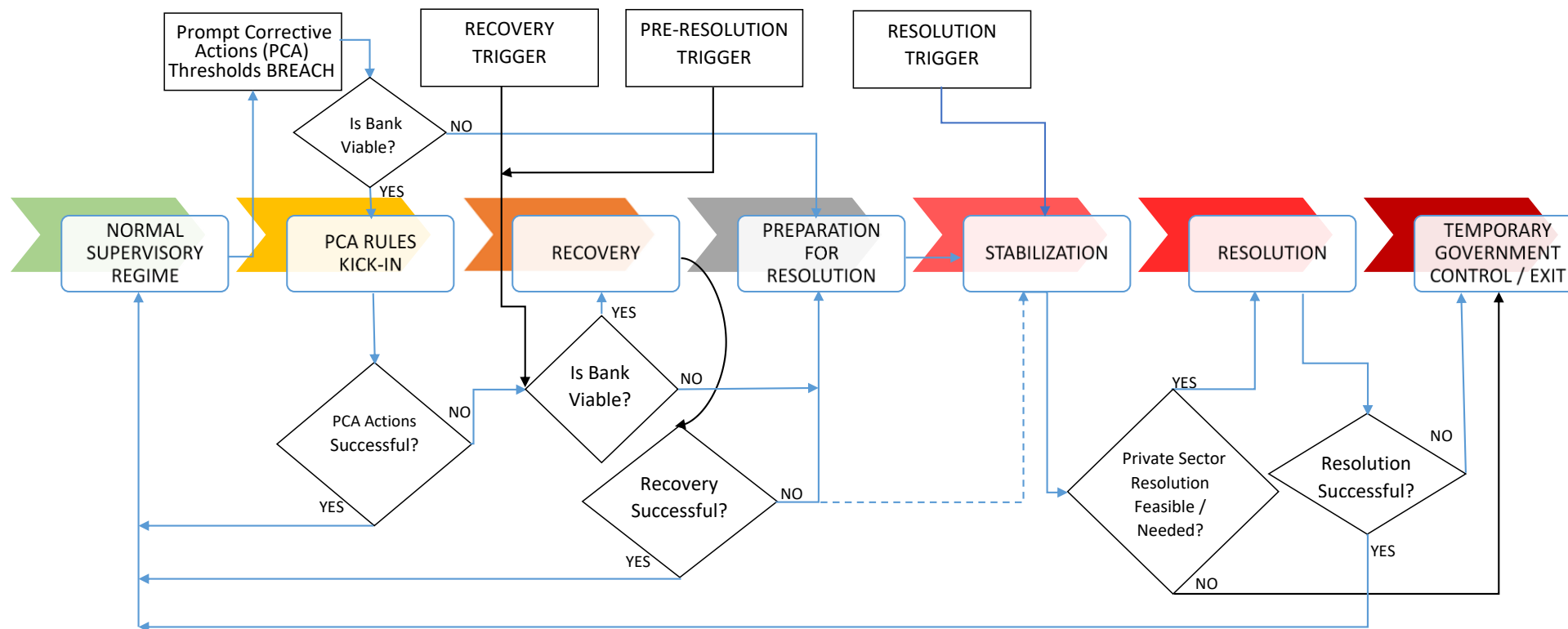


Figure 2 : Process Flow for Bank Resolution in Oman



PROCEDURES AT A GLANCE

<p>NORMAL REGIME</p> <ul style="list-style-type: none"> - On-site Examination. - Off-site Surveillance. - Stress Testing. - Monitoring of Prompt Corrective Action thresholds, Capital Conservation Buffers, Recovery, and Resolution Thresholds. 	<p>PCA Actions based on: Asset Quality, Capital, Liquidity & Other Indicators</p> <ul style="list-style-type: none"> - Restrictions on New Lines of Business - Monitoring of specific lines of business. - Higher liquidity/ capital requirements - Accelerated provisions - Reducing dividend payments. - Share buybacks. - Staff bonus cuts. - Plan to raise new capital, etc. 	<p>RECOVERY</p> <ul style="list-style-type: none"> - Apprise higher management of the breach of recovery threshold. - Evaluate the adequacy and feasibility of recovery actions. - Monitor recovery actions and progress made by the Bank. - Evaluate the success of the recovery actions, and determine future course of action. 	<p>RESOLUTION PREPARATION</p> <ul style="list-style-type: none"> - Apprise higher management. - Seek for "stressed time" information. - Prompt for special examination. - Enlist outside consultants to assess losses / value. - Explore feasible resolution options. - Set-up data / legal documents dossier. 	<p>STABILIZATION</p> <ul style="list-style-type: none"> - Freeze all transactions in the bank with immediate effect. - Announce Closure of bank for 48 hours. - Call detailed information of insured/un-insured deposits. - Re-open with full access to insured deposits / part access rest of the deposits. 	<p>RESOLUTION</p> <ul style="list-style-type: none"> - All of "Resolution Preparation" plus, - Determine the resolution strategy and least costly option. - Legal consultation - Approval of BoG of CBO - Act as or Appoint receiver / administrator. - Marketing plan/ authorization, if needed. - Exercise the least costly option and execute the approved resolution strategy. 	<p>TEMPORARY GOVERNMENT CONTROL / EXIT</p> <ul style="list-style-type: none"> - All "Resolution Preparation", necessary "Resolution" steps plus, - Seek Approval of BoG of CBO and BDIS. - Coordinate with MoF necessary approvals. - Determine an exit strategy and seek approval for Time frame. - Follow "Resolution" steps.
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ARTICLE 2 : Scope

2.1. All financial institutions that are designated as D-SIBs/D-SIFIs by CBO shall be subject to this Resolution Framework. However, at its discretion, from time to time the CBO may include or exclude any financial institution licensed by it from the scope of the resolution framework.

2.2. The institutions included in the scope of the Resolution Framework shall be referred as “covered institutions”, whereas the institution under resolution on which resolution measures are (to be) implemented shall be referred as “affected institution”/ “affected bank” in this Framework.

ARTICLE 3 : Defined Terms

3.1. In the interpretation, application, administration and enforcement of this Framework, the following definitions shall be applied, unless otherwise specifically provided or the context otherwise requires:

“Administrator” means an Administrator appointed as per the provisions Banking Law 2000, as amended from time to time;

“Affected institution” or “Affected bank” means any institution licensed by CBO in respect of which resolution measures are (to be) implemented;

“Bank Resolution Framework” / “Resolution Framework” / “this Framework” means “Bank Resolution Framework for Oman”;

“Banking Law” / “Banking Law 2000” means the Banking Law of Sultanate of Oman issued under Royal Decree # 114 / 2000, as amended from time to time;

“Bridge bank / Bridge institution” means the bank that is established as per the provisions of Article 16 of this framework;

“Central Bank of Oman”/ “CBO” means the Central Bank of Oman, established in accordance with The Banking Law 1974 as the Central Bank of the Sultanate of Oman;

“Covered institutions” means any institution licensed by CBO that is included in the scope of the resolution framework and subject to the provisions of this framework;

“Deposit insurance” means the insurance of eligible deposits under Bank Deposit Insurance Scheme issued by Royal Decree # 09/95;

“D-SIBs/D-SIFIs” means an institution licensed by CBO that is designated as a D-SIB / D-SIFI under the “Domestic Systemically Important Banks (D-SIBs) Framework for Oman”

“Insured deposit” means the deposit covered under Bank Deposit Insurance Scheme issued by Royal Decree # 09/95;

“Resolution Authority” means the Central Bank of Oman;

“Resolution Fund” means a fund established under the provisions of Article 10 of this framework;

“Resolution measures”/ “Resolution actions” mean the measures provided for in Article 5 and Article 16 of this framework;

“Senior management” means officials, as defined in Circular BM 652, of an institution licensed by CBO.

ARTICLE 4 : Objectives of Resolution

4.1. The recovery plan is used in a situation, where the institution has not yet entered a resolution phase. In such cases there is a reasonable chance that the institution can be saved. The recovery plan includes steps to minimize the risk profile of the financial institution, safeguard capital/ assets, and other optional steps for restructuring. The responsibility of the implementation of the recovery plan lies within the licensed institution in question. CBO shall supervise the process.

4.2. The resolution plan, on the other hand, usually comes in force close to the insolvency of a non-viable institution to ensure that the resolution is carried out in an orderly manner without severe disruption to the financial system.

4.3. While carrying out its mandate as the Resolution Authority for institution licensed by it, CBO aims to achieve the following objectives:

- (a) Pursue financial stability and ensure continuity of critical financial services, and payment, clearing and settlement functions;

- (b) Ensure that all or most of the critical functions of the affected institution are saved using various available tools;
- (c) Protect, where applicable and in coordination with the relevant insurance schemes and arrangements, the depositors and investors as are covered by such schemes and arrangements;
- (d) Ensure that the insured deposits within the protected limits (RO 20,000 for the time being) are accessible within a reasonable timeframe to be decided by the Resolution Authority;
- (e) Safeguard public confidence in the financial system, avoid or minimize the adverse effects of failure of affected institution, and shield other solvent financial institutions and economy at large from the negative effects of the failure of an affected institution ;
- (f) Avoid unnecessary destruction of value and seek to minimize the overall costs of resolution and losses to creditors;
- (g) Discourage reliance of affected institutions on public funds and minimize the cost of resolution to the national exchequer;
- (h) Duly consider the potential impact of its resolution actions on financial stability in Oman or other jurisdictions and prevent propagation of risks.

ARTICLE 5 : Resolution Authority and Resolution Powers

5.1. Resolution Authority

5.1.1. In terms of powers vested under the Banking Law 2000, CBO shall be the Resolution Authority for all entities licensed by it. The Board of Governors of CBO or any person appointed by them shall have the power to adopt and implement resolution measures on institutions licensed by the CBO.

5.2. Powers of the Resolution Authority

5.2.1. Where resolution measures are adopted in connection with an affected institution, the Resolution Authority, shall be authorized and empowered to:

- (i) Direct an institution to implement elements of the recovery plan.
- (ii) Require a covered institution, by written notice served to it, to make changes, within a period specified in the notice, in business structure, operations, assets, or liabilities to enable a least-cost resolution or direct removal of any other impediments that, in the opinion of the Resolution Authority, may inhibit orderly resolution of a financial institution. The period specified in the notice shall be the one that, in the opinion of the Resolution Authority, is reasonable to effect the desired changes. The Resolution Authority, at its own discretion, may extend the period if it is satisfied with the progress made by the covered institution.
- (iii) Enter into legally enforceable agreements/ contracts and exercise all powers, duties, and responsibilities of the shareholders or board members or managers of the affected institution, or its subsidiaries.
- (iv) Without prejudice to the generality of section (iii) above, remove or replace or appoint board members or senior management of an institution under resolution or its subsidiaries, and follow due process to recover monies from responsible persons, including claw-back of variable remuneration.
- (v) Without prejudice to the generality of section (iii) above, override rights of shareholders of the affected institution, including requirements for approval by shareholders of particular transactions, in order to permit a merger, acquisition, sale of substantial business operations, recapitalization or other measures to restructure and dispose of the institution's business or its liabilities and assets.
- (vi) Represent the institution under resolution in judicial proceedings in which the institution is a party or interested party.
- (vii) Take physical control or request the law enforcement officials to assist the Resolution Authority to gain access to any premises of the institution under resolution and to gain physical control over and to secure such

facilities, assets, books, records and other documents of the institution under resolution.

- (viii) Have free access to the facilities as well as to the assets, accounting books, and other documents of the institution under resolution for the implementation of the resolution measures.
- (ix) Appoint an administrator to take control of and manage and exercise all powers, duties, and responsibilities of the shareholders or board members or managers of the affected institution. The remuneration and the overall cost for the appointment of the Administrator and Administration of the affected institution shall be governed by Article 86 and 87 of the Banking Law 2000 or relevant clause(s) as amended from time to time.
- (x) Withdraw the license or suspend the operation of the institution under resolution.
- (xi) Take possession of the suspended institution, administer it during the period of suspension and, when deemed necessary, to liquidate and close or to reopen or to reorganize such institution without the permission of shareholders, creditors or any interested party.
- (xii) Transfer or sell, in whole or in part, business, property, assets and/or liabilities, legal rights and obligations of the institution under resolution to a third party.
- (xiii) Operate and resolve the institution, continue or assign contracts, purchase or sell assets, and take any other action necessary to restructure or wind down the institution's operations.
- (xiv) Impose a moratorium with a suspension of payments to creditors and customers and a stay on unsecured creditors' actions to attach assets or otherwise collect money or property from the institution.

- (xv) Implement resolution measures on the branches of institutions established in other countries, subject to the laws and regulations of host country.
- (xvi) Ensure continuity of essential services and functions by requiring other financial institutions to continue to provide essential services to the entity in resolution, any successor, or an acquiring entity; ensuring that the residual entity in resolution can temporarily provide such services to a successor or an acquiring entity; or procuring necessary services from unaffiliated third parties.
- (xvii) Establish one or more temporary bridge institution to take over and continue operating certain critical functions and viable operations of an affected institution.
- (xviii) Grant banking or other necessary license(s) to the bridge institution. CBO, at its discretion, may waive or lower certain licensing conditions or liquidity, capital or other requirements for the bridge institution. The bridge institution shall be sold within a period of two years from the date of its establishment. If the sale is not possible by that time then the bridge institution shall be liquidated unless the Board of Governors of the CBO extend its license(s).
- (xix) Establish the terms and conditions under which the bridge institution has the capacity to operate as a going concern, including the manner under which the bridge institution obtains capital or operational financing and other liquidity support; the prudential and other regulatory requirements that apply to the operations of the bridge institution; the selection of management and the manner by which the corporate governance of the bridge institution may be conducted; and the performance by the bridge institution of such other temporary functions as the Resolution Authority may from time to time prescribe.

- (xx) Arrange the sale or wind-down of the bridge institution, or the sale of some or all of its assets and liabilities to a purchasing institution to effect the objectives of the Resolution Authority.
- (xxi) Establish a separate asset management vehicle (for example, as a subsidiary of the distressed institution, an entity with a separate charter, or as a trust or asset management company) and transfer non-performing loans or difficult-to-value assets to the vehicle for management.
- (xxii) Carry out bail-in within resolution as a means to achieve or help achieve continuity of essential functions either (i) by recapitalizing the entity providing these functions that is no longer viable, or, alternatively, (ii) by capitalizing a newly established entity or bridge institution to which these functions have been transferred following closure of the non-viable institution (the residual business of which would then be wound up and the institution liquidated).
- (xxiii) The powers to carry out bail-in within resolution entails the ability of the Resolution Authority to:
 - a. Write-down in a manner that respects the hierarchy of claims in liquidation, equity or other instruments of ownership of the institution, unsecured and uninsured creditor claims to the possible extent to absorb the losses; and
 - b. Convert into equity or other instruments of ownership of the institution under resolution (or any successor in resolution), all or parts of unsecured and uninsured creditor claims in a manner that respects the hierarchy of claims in liquidation.
- (xxiv) Effect the closure and orderly wind-down (liquidation) of the whole or part of an affected institution with pay-out or transfer of insured deposits.
- (xxv) Initiate a wind-down for those operations that, in the particular circumstances, are judged by the Resolution Authority to be not critical to the financial system or the economy.

- (xxvi) Apply one or a combination of resolution powers stated above, with resolution actions being either combined or applied sequentially.

- (xxvii) Apply different types of resolution powers to different parts of the institution's business (for example, retail and commercial banking, trading operations, insurance etc.).

- (xxviii) Share information, including recovery and resolution plans (RRPs), pertaining to an individual institution, the group, the subsidiaries or branches, with the relevant foreign authorities when deemed necessary, subject to confidentiality requirements and protections for sensitive data.

ARTICLE 6 : Indemnity and Immunity Regarding Exercise of the Resolution Powers

6.1. Without prejudice to the immunity available to CBO and its officials by any other law, the CBO, its Board of Governors, its appointed administrators, and its authorized officials & staff shall not be held liable for the omissions made and actions taken in good faith while exercising discretion and discharging their duties in exercise of the resolution powers to achieve the resolution objectives.

6.2. CBO shall fully indemnify its staff and agents against legal costs, fees and other financial expenses which could be incurred in connection with legal processes or judicial challenges related to their work on resolution of an institution.

6.3. Directors and officers of the firm under resolution shall not be held liable for actions taken in good faith and without negligence when complying with decisions of the Resolution Authority. CBO shall fully indemnify the directors and employees of the institution under resolution against legal costs, fees and other financial expenses which could be incurred in connection with legal processes or judicial challenges related to the actions taken by them in good faith and without negligence on the instructions of the Resolution Authority.

ARTICLE 7 : Conditions and Triggers for Resolution

7.1. The resolution shall be triggered only when the earlier actions (initiated by CBO) to bring the institution back on the sound footings and/or the self-propelled recovery efforts (initiated by the institution) to restore the order in the institution fail to rescue the institution and / or it determined by the Resolution Authority that the institution is not viable with its existing structure as per the assessment of CBO.

7.2. The resolution shall be initiated close to but well before actual insolvency. The exact triggers points shall be defined in the Resolution Plan and may be revised from time to time by the Resolution Authority as deemed necessary.

7.3. Conditions for Resolution

7.3.1. The following conditions shall guide the trigger of resolution:

(a) According to the assessment of the Resolution Authority, the institution is no longer viable or is likely to no longer be viable, and

(b) According to the assessment of the Resolution Authority, any action(s) other than resolution measures cannot be taken within a reasonable time either by the institution or the CBO to preserve the institution or the financial stability, and

(c) A resolution measure is necessary to preserve financial stability and safeguard the public interest.

7.4. Resolution in Case of Systemic Events

7.4.1. The Resolution Authority may initiate resolution of institutions licensed by it if, in its opinion, a systemic event requires immediate action by the Resolution Authority.

7.4.2. Systemic Event

7.4.3. For the purpose of Article 7.4.1, the following definition of systemic event has been adopted:

- a) Circumstances where covered institution or other financial institution licensed by CBO or a group of such institutions are unable to provide the products or services that they have contractually undertaken to provide;
or

- b) In the opinion of the Resolution Authority, there is an actual or perceived loss of confidence in the ability of one or more financial institutions or financial system to continue to provide financial products or services to an extent that it may have a substantial adverse effect on the financial system and economic activity in Sultanate of Oman, irrespective of the event or circumstance occurring or arising inside or outside the Sultanate.

ARTICLE 8 : Initiation of Resolution

8.1. Before initiating a resolution of a financial institution, the Resolution Authority shall issue to the financial institution a letter in writing stating that it is initiating resolution of the financial institution, specifying that it is satisfied that conditions for resolution are met and why it is so satisfied.

ARTICLE 9 : Safeguards and Priority of Claims

9.1. The Resolution Authority shall ensure that as a general principle, “no creditor will be left worse off” after the use of the resolution powers than they would have been under the usual insolvency / liquidation regime.

9.2. If resolution measures are taken, the priority of claims shall be decided in accordance with the Article 87 of the Banking Law 2000 or relevant clause(s) as amended from time to time.

ARTICLE 10 : Funding of Resolution

10.1. Loss Absorbency Capital

10.1.1. The Resolution Authority shall have the power to make rules prescribing loss absorbency capital requirements.

10.2. Resolution Fund

(a) The Resolution Authority shall have the power to create an ex ante, financial institution-funded ‘Resolution Fund’ by contributions from the covered institutions and / or other financial institutions licensed by it.

(b) The Resolution Authority shall decide the periodic contributions by financial institutions to the Resolution Fund and the size of the Resolution Fund.

(c) The Resolution Authority may require an initial funding from the covered institutions and / or other institutions licensed by it as seed capital for the Resolution Fund. The amount of the initial contribution shall be determined by the Resolution Authority.

(d) In case the Resolution Fund is not sufficient in the event of a resolution, the Resolution Authority, at its sole discretion, may provide temporary public funding to maintain critical functions for orderly resolution. Any such funding or costs incurred in the employment of the financing arrangements shall be consecutively borne by shareholders and unsecured creditors of the affected institution. The Resolution Authority shall recover any such funding subject to adhering to the “no creditor worse off than in liquidation” condition.

(e) Any provision of temporary finance by the Resolution Authority shall be subject to the conditions that (i) it is necessary to foster financial stability and will permit implementation of a resolution option that is best able to achieve the objectives of an orderly resolution, and (ii) private sources of funding have been exhausted and / or cannot achieve these objectives;

(f) The Resolution Authority may follow due process to require senior management of an institution under resolution to bear losses commensurate with their individual responsibility for the failure of the institution unless they acted in good faith and without negligence.

(g) As a last resort and for the overarching purpose of maintaining financial stability, the Resolution Authority may decide to place the institution under temporary public ownership and / or control in order to continue critical operations, while seeking to arrange a permanent solution such as a sale or merger with a commercial private sector purchaser. When such power is exercised, any losses incurred by the national exchequer may be recovered from shareholders, unsecured creditors or, if necessary, the financial system more widely. Any surplus that may result from the resolution / restructuring of an institution by the Resolution Authority using temporary public funding/ ownership shall be transferred to the Resolution Authority.

10.2.1. Management of the Resolution Fund

The Resolution Authority shall have the power to create a Resolution Fund Committee manned with officials from CBO and/or representatives of institutions making contributions to the Resolution Fund. The Committee shall be responsible for the management of the Resolution Fund.

10.3. Ex-post Resolution Financing

The Resolution Authority shall have the power to frame rules and regulations for ex-post financing of a resolution. Ex-post financing may be used if the resources available with the resolution fund, if any, and financial institution under resolution are not sufficient to fund the resolution. Under the ex-post financing scheme, the Resolution Authority may require the financial institution that is resolved to pay off the resolution costs over a period of time or engage with other institutions licensed by CBO to contribute to the resolution of financial institution(s).

ARTICLE 11 : Access to Information and Information Sharing

11.1. Access to detailed institution-specific information about the critical functions performed by the institutions and the contact information of the persons responsible to carry out those functions is important.

11.2. The flow of information during stressed times may be a challenge, therefore, during normal times arrangements for collection and collation of relevant information shall be made. The set of information shall comprise the information to be used / collected during normal times and information to be used / collected during stressed times. This includes but is not limited to information on recovery plans for the covered institutions, any additional templates to collect the information on operations, management, the inherent risks, the possible mitigating measures to re-establish financial stability without official support within a realistic timeframe.

ARTICLE 12 : Communication Strategy

12.1. The Resolution Authority may, for the purpose of achieving the objectives of the resolution and in accordance with its mandate and powers, issue general or specific directives to be communicated in any manner that the Resolution Authority may determine.

12.2. The Resolution Authority shall keep the relevant government agencies abreast of the developments related to resolution actions and may consult them in case of need. At its discretion, the Resolution Authority shall periodically inform the public on the resolution action taken or being considered by it.

ARTICLE 13 : Cooperation with Domestic and Cross-border Authorities:

13.1. Domestic

13.1.1. Joint Committee on Financial Stability (JCFS) is the apex committee to oversee financial stability in Oman. JCFS is chaired by H.E., Executive President of CBO and includes H.E., Executive President of Capital Markets Authority as Deputy Chairman and members representing Ministry of Finance, and State General Reserve Fund. H.E., the Executive President of CBO at his discretion and depending on the nature of resolution measures being considered may call a meeting of the JCFS for ensuring necessary coordination between relevant government bodies before, during, or after the resolution actions.

13.1.2. After an assessment of resolution funding arrangements, the Resolution Authority may consider working on pre-appropriated funding lines via the Ministry of Finance that can be drawn on quickly in times of need, and repaid later after recovery from the affected institution/ resolution fund.

13.1.3. The Resolution Authority may engage with the relevant authorities / Capital Markets Authority to seek temporary exemptions from disclosure requirements or a postponement of disclosures required by the institution under resolution where the disclosure by the institution under resolution could affect market confidence or hinder the successful implementation of resolution measures.

13.2. Cross-border:

13.2.1. The financial sector of Sultanate is largely Oman-centric with few branches and subsidiaries of domestic financial institutions abroad. As far banks are concerned, foreign banks operating in Oman have a small market share.

13.2.2. Nevertheless, concrete steps shall be taken to enhance cross-border coordination arrangements regardless of whether there is failure of a

local or foreign institution under ordinary times or of systemically important bank/ financial institution. To reinforce the cross-border cooperation, the Resolution Authority may enter into resolution-oriented Memoranda of Understanding with the host authorities of the countries where Omani D-SIBs or other systemically significant banks/institutions have operations and with the home authorities of the foreign banks/ financial institutions licensed by CBO and operating in Oman.

ARTICLE 14 : Recovery and Resolution Plans

14.1. Each financial institution included in the scope of resolution framework in terms of Article 2 of this framework shall prepare, maintain, and test recovery & resolution plans in order to enable them to restore themselves to the financial soundness in the event of shocks.

14.2. Such plans, inter alia shall cover:

- (i) The institution's operations, the inherent risks, the possible mitigating measures to re-establish financial stability without official support within a realistic timeframe.
- (ii) Information on contractual obligations; cross-guarantees tied to different securities; counterparties to whom the collateral of the bank pledged.
- (iii) Well calibrated trigger points to monitor the institution's position vis-à-vis recovery thresholds.
- (iv) Comprehensive menu of actions for returning the banks'/financial institution's capital and liquidity to required levels in case of a rigorous idiosyncratic or systemic shock, including proposals to generate liquidity, raise capital and sell subsidiaries and/or other businesses.
- (v) Processes and procedures to ensure timely implementation of recovery options in a range of stress situations

14.3. CBO may, from time to time, issue guidelines or specify requirements for such recovery & resolution plans.

14.4. CBO may require any financial institution licensed by it whether or not covered in the scope of resolution framework to prepare recovery and/or resolution plans.

14.5. For each covered financial institution, CBO shall prepare an institution-specific resolution plan to ensure that the resolution is carried out in an orderly manner without severe disruption to the financial system.

ARTICLE 15 : Recovery & Resolvability Assessments and Simulation Exercises

15.1. Recovery Assessment

15.1.1. As part of the on-going supervision process, the “Recovery Planning & Monitoring Unit” shall periodically check to ensure that the banks’/financial institutions’ required recovery and contingency plans are up-to-date and adequate.

15.2. Resolvability Assessment

15.2.1. As part of crisis preparedness, the Resolution Authority shall periodically assess the feasibility and credibility of the resolution plans and strategies. Such resolvability assessments shall, inter alia, include:

1. the extent to which critical financial services, and payment, clearing and settlement functions can continue to be performed;
2. the nature and extent of intra-group exposures and their impact on resolution if they need to be unwound;
3. the capacity of the bank/ financial institution to deliver sufficiently detailed accurate and timely information to support resolution; and
4. the robustness of cross-border cooperation and information sharing arrangements.

15.3. Resolution Simulation

15.3.1. Other than the recovery and resolution assessment, Resolution Authority may also engage in resolution simulation exercises in forms that are simulated but do resemble reality to gauge the adequacy and practicality of the resolution plans, the “financial sector stability arrangements (laws, regulation, protocols, procedures, systems, database, reporting) and the way decision makers utilize them to effectively operate while a simulated crisis unfolds”¹.

¹ The World Bank (2010), “MENA is offering a new tool: the Financial Crisis Simulation Exercises.”

ARTICLE 16 : Resolution Toolkit

16.1. An ideal way to deal with the issue of resolution is to evaluate all possible alternatives available and going in for that option of resolution that minimizes disruption and minimizes the cost to the deposit insurance fund and losses to uninsured depositors and other creditors. Evaluation of 'least cost' becomes complex during an episode of bank failure due to sudden uncertainty imposed on the value of assets and liabilities, the expected level of recovery in asset value and most importantly the pressure put on policy makers to keep banks alive for the functioning of the economy which may add to further costs by way of public funds required for this objective to materialize. The resolution choices include stabilization options and liquidation options.

16.2. The Resolution Authority may use the following suite of resolution tools that include but are not limited to:

16.3. Open Bank Resolution Strategy

16.3.1. Open Bank Resolution (OBR)² is a strategy whereby the affected bank is closed for a short duration (for example 24-48 hours) following the trigger of a resolution event and is re-open for (full scale or limited) business after its temporary closure providing customers with full or partial access to their accounts and other bank services. Usually the amount guaranteed by the deposit insurance is fully accessible and the rest of the frozen amount is made accessible after ascertaining losses and possible haircuts.

16.3.2. The affected bank is usually placed under a statutory management, thereby taking away the owners' control over the management. The statutory management carries out day-to-day operations under the direct authority and supervision of the Resolution Authority. Thus, operations of the bank on the ground do not stop immediately, but the Resolution Authority starts working out a long-term solution to the affected bank.

16.3.3. OBR in itself is not a final solution to the bank's trouble; it is intended to provide a non-disruptive breather for the authorities to chalk out a

² Based on the system in place in New Zealand. (Ref: <http://www.rbnz.govt.nz/regulation-and-supervision/banks/open-bank-resolution>)

lasting solution like merger with another bank, change of management, or even liquidation in an extreme situation.

16.3.4. Implementation Mechanism

- a) There is a *prima facie* assessment of losses by the Resolution Authority that is in excess of what can be absorbed by the shareholders and sub-ordinated debt holders. This excess loss is allocated to the unsecured creditors and uninsured depositors by freezing a part of their claims right at the beginning of the resolution process. The funds so frozen are made available to the statutory management to continue with the bank's operations. The unsecured creditors and uninsured depositors cannot access the frozen part of their claims, but can continue to draw the unfrozen portions. All other operations (e.g., credit disbursement and deposit acceptance) will be allowed to function within the overall objective of the resolution process.
- b) If the aggregate frozen claims of unsecured creditors and uninsured depositors are not adequate to meet the actual losses, the concerned creditors and depositors can no more be called upon to bear additional losses. The excess amount may be met through the Resolution Fund, if required. In case of extreme losses, the Resolution Authority shall take a further appropriate decision.

16.3.5. Evaluation

- a) The biggest advantage is that the resolution process under OBR kicks off without any major disruptions in the economy. Most of the customer operations remain functional while the Resolution Authority is able to draw up the best solution.
- b) OBR helps preserve the remaining value of the bank even when the Resolution plan is on the anvil.
- c) OBR conforms to the key attributes of a resolution regime as propounded by the FSB. For instance, losses are ultimately borne by the bank's shareholders and creditors, while the process is as non-disruptive as possible³.
- d) Assessment of losses and estimating the percentage of unsecured creditors' funds that need to be frozen will be challenging. A quick estimate of the

³ Hoskin, Kevin, and Ian Woolford. 2011. "A Primer in Open Bank Resolution.", Reserve Bank of New Zealand: Bulletin, Vol. 74, No. 31

losses of an affected bank will need specialized skills and elaborate information about the bank.

e) The strategy seems feasible in the Omani context.

16.4. Purchase and Assumption (P&A) Strategy

16.4.1. Under this strategy, a healthy bank is allowed to purchase assets and assume liabilities from the affected bank. The affected bank's essential operations are allowed to continue, thereby providing a non-disruptive strategy of resolution. The purchase by the healthy bank may envisage the entire bank or only a part of its assets and liabilities.

16.4.2. Usually the healthy bank assumes all insured deposits of the affected bank. As a result, the resolution process does not involve loss or disruption to insured depositors. Access to deposits remains more or less uninterrupted.

16.4.3. Implementation Mechanism

- a) Once a bank is placed under resolution, the Resolution Authority takes steps to write down the existing equity so as to absorb losses. Simultaneously, a healthy bank has to be identified, based on acceptable criteria, which can either purchase the entire bank or take over part of its assets and liabilities (including insured deposits).
- b) The P&A strategy has various forms as discussed below:
 - i. Basic P&A – The private sector purchaser generally takes on only limited assets, usually cash and cash equivalents, and matching liabilities consisting mainly the insured deposits, either whole or part.
 - ii. Whole bank P&A – The private sector purchaser or the acquirer purchases the entire portfolio of the affected financial institution on an “as-is” basis with no guarantees. Such transaction minimizes the cash outlay and reduces the assets held for future liquidation.
 - iii. Loan Purchase P&A / Modified P&A – In addition to cash and cash equivalents, the acquiring institution will also acquire the performing loan portfolio and/or the mortgage loan portfolio of the failing financial institution.

- iv. P&A with Put option – In order to create a greater incentive for acquirers to bid for an affected institution’s assets, the Resolution Authority can provide a “put” option on some of the transferred assets. This would allow the acquirer to have a certain period of time, such as 60 or 90 days, to put back to the Resolution Authority assets it determines it does not want to keep. Such an option could, however, lead to a deterioration in the value of put assets due to lack of attention, thereby making them harder for the Resolution Authority to market or collect later.
- v. P&A with Asset Pools – This tool offers asset pools, divided into separate pools of like loan assets such as loans within the same geographic location or with the same payment terms. The pools could also be divided into performing and non-performing loans. The pools can be marketed separately. Bidders are thus able to bid on the parts of an affected financial institution’s business that fit best with their own business model. This arrangement allows for marketing to a great number of potential acquirers, which can lead to a greater number of assets being transferred.
- vi. Loss Share P&A – The acquirer and the Resolution Authority enter into an agreement to share any future losses on a defined set of assets. By limiting the risk for the acquirer, the Resolution Authority may be able to attract more bidders for the purchase of the affected institution’s assets.

16.4.4. **Evaluation**

- a) This strategy appears as a workable solution as it seeks to ensure continuity of operations while the loss is not passed on to the national exchequer.
- b) It protects the depositors without having to utilize public resources. Public will have continued access to their deposits even when the resolution is underway. Even the deposit insurance funds need not be used up.
- c) The healthy bank that acquires the affected bank (in whole or in part) usually provides better comfort to other creditors and counterparties. This serves the purpose of financial stability.
- d) However, this solution presupposes that the acquiring bank is big and strong enough to materially extend its shoulders to the affected bank.

e) As far as Oman is concerned, P&A resolution strategy could be an acceptable solution for relatively smaller banks or may be useful for larger banks when the affected bank is broken into smaller units for acquisition by more than one smaller banks. For instance, the Islamic banking window, mortgage loan portfolio, salary-linked personal loans, and sector-specific project loans, etc. may independently be suitable for acquisition. On the other hand, the Resolution Authority can transfer deposit liabilities to all participating banks in certain proportions. In this context, the following tools appear to be feasible in Oman:

- P & A with asset pools appears to be a feasible tool as it provides opportunity to more number of existing banks to bid for the affected bank's portfolios.
- P & A with sharing of losses between the acquirer and the Resolution Authority may also be kept in the armory as it may help the acquirer to stay incentivized. The Resolution Authority may use the Resolution Fund for the purpose.
- While other P & A tools enumerated in the previous section are generally implementable, P & A with put option may not be an ideal choice in Oman as it would add to uncertainties.

16.5. Bridge Bank / Good-Bad Banks

16.5.1. This is a variation of the P&A strategy. It offers a transit arrangement for a failing bank whereby the Resolution Authority seeks to preserve the good assets and privileged liabilities, ensure continuity of critical operations till a healthier bank makes its offer to acquire the viable and critical operations of the affected institution/bank.

16.5.2. Bridge bank offers an interim solution to an affected bank. The Resolution Authority seeks to preserve and retrieve the value of the failing bank by creating a temporary institution (bridge bank), which takes over the performing assets and liabilities. Another healthy institution eventually acquires the bridge bank. The failing bank is allowed to get liquidated after the bridge bank becomes functional.

16.5.3. Good bank strategy works on similar lines as a bridge bank, but with a subtle difference. Under this strategy, the failing bank is divided into two parts – one comprising good assets, privileged liabilities and critical functions (the good bank), while the other consisting of affected assets and other liabilities (the

bad bank). The bad bank carved out from the failing bank is allowed to get liquidated. Some healthy financial institution acquires the good bank.

16.5.4. **Implementation Mechanism**

- a) The Resolution Authority identifies assets and liabilities of the affected/failing bank that need to be continued.
- b) A new temporary institution is licensed as bridge bank with tailored Articles of Association.
- c) The Resolution Authority appoints a professional team to manage the Bridge bank.
- d) The bridge bank takes over the identified assets and liabilities including the insured deposits.
- e) In the meantime a suitable bank is identified which takes over the Bridge Bank. The failing bank is placed under liquidation thereafter.
- f) In case good bank-bad bank strategy is adopted, the Resolution Authority identifies the non-performing assets and liabilities of appropriate hierarchy to be passed on to the bad bank, which is eventually liquidated.
- g) The good bank created out of the viable assets and privileged liabilities continue for some period till it is acquired by an existing bank.

16.5.5. **Evaluation**

- a) This is a feasible strategy, which allows critical operations to continue through a bridge bank or a carved out good bank.
- b) The eventual transfer of the bridge bank or the carved-out good bank to another healthy bank may not be easy in Oman if the D-SIB has to pass through this resolution too. Other banks may be too small to take over even the part of the bank classified under critical function.
- c) The bridge bank has to be finally transferred to several other existing banks. In that case, the Bridge Bank itself may have to segregate the assets from the beginning into modular portfolios capable of being distributed to different institutions.

16.6. Bail-In / Recapitalization

16.6.1. Bail-in refers to converting or writing down existing debt instruments to absorb losses of a failing bank. The central idea is that a failing bank is not bailed out by using Government funding. Instead, the losses should be absorbed by the stakeholders of the bank, e.g., shareholders and debt holders.

16.6.2. Traditionally, equity holders bear the losses of the bank. If the losses are greater than the equity, some debt may be converted into equity or written down. Debt instruments may specify *ab initio* the conditions / triggers, when conversion / write-downs can be resorted to.

16.6.3. Implementation Mechanism

- a) A bank issues subordinated debts, which qualify as regulatory capital. The instruments issued as Additional Tier 1 and Tier 2 capital possess loss absorbing features. In addition to these debts, Financial Stability Board has prescribed Total Loss Absorption Capacity (TLAC) for G-SIBs. The TLAC refers to additional layers of debts that have special loss absorbing features, activated during resolution.
- b) The above debt instruments are issued with contractual agreement with the subscribers that the debt would be written down or converted to equity either on the basis of pre-defined triggers or at the discretion of the regulators.
- c) The bail-in is utilized either to fund the bridge bank or allow the failing bank to recapitalize itself.

16.6.4. Evaluation

- a) Bail-in is considered as a preferred resolution tool for G-SIBs. The TLAC requirement for G-SIBs is prescribed at double the minimum Basel III capital requirement.
- b) When it is difficult to separate critical functions from non-critical ones for the purpose of their continuation, and the failing bank is very large, bail-in is considered quite useful. Recapitalizing the bank by way of conversion of debts may help bring back public confidence.
- c) However, bail-in is a complex process at the resolution stage. Conversion of debt or write-downs may become difficult if the same brings in

instability to the debt market. The operational feasibility of bail-in instruments during times of crisis is yet to be put to test.

- d) In a recent development, the possibility of mere coupon deferral in Additional Tier 1 bonds as triggered by unexpected losses in a G-SIB led to great deal of market turmoil. If this is any indication, full-fledged bail-ins may not be easy to achieve.
- e) In Oman, banks do not have any bail-in liability other than that qualifying as Tier 1 and Tier 2 bonds. These bonds will be used in absorbing losses as indicated in the resolution strategies previously articulated in this document. However, there are no other bail-in instruments available with the banks.

16.7. Public Recapitalization / Temporary Public Ownership

16.7.1. This is a stabilization tool that involves assuming complete ownership of an affected institution by the government. In the process, the affected institution is preserved as a going concern, but effectively requires the government to guarantee the obligations of the affected institution and may require the government to inject new equity into it. This potentially undermines the public finances. This is a “tool of last resort”, available in extraordinary situations of a systemic crisis and is appropriate only if private sector solutions do not work and safeguarding the financial stability is not possible without public support.