

# DEPOSIT PROTECTION BOARD

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## PUBLIC-POLICY OBJECTIVES, FUNCTIONS, POWERS AND DESIGN FEATURES FOR AN EXPLICIT, LIMITED DEPOSIT PROTECTION SCHEME IN ZIMBABWE

### PURPOSE

This paper provides, for purposes of giving any would-be consultant the specific scope of a deposit insurance to be set up in Zimbabwe, the Public-policy Objectives, Functions and Design Features for a Deposit Protection Scheme (DPS) in Zimbabwe.

The implementation programme of the DPS will be divided in two phases. Phase One will be based on the Public-policy Objectives, Functions, Powers, and Design Features of the DPS, which are in conformity with the Banking Act (Chapter 24:20) (the Act), without any amendments.<sup>1</sup> Phase Two of the DPS implementation programme will incorporate additional Public-policy Objectives, Functions, Powers, and Design Features, which will, to the extent possible and in the Zimbabwean context, improve the operations of the DPS to conform with the “Guidance for Developing Effective Deposit Insurance Systems”<sup>2</sup> and “Best practices.”<sup>3</sup>

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<sup>1</sup>The assessment as to the conformity of the scope of the DPS with the Act is based on legal input received from Mr. B. D. Crozier, Consultant, formerly employed by the Attorney General’s Office, Government of Zimbabwe. Mr. Crozier has drafted quite a number of Government of Zimbabwe Acts, including the Banking Act (Chapter 24:20), in which provisions relating to the Deposit Protection Scheme are contained.

<sup>2</sup>See Financial Stability Forum (2001), “Guidance for Developing Effective Deposit Insurance Systems” by the Financial Stability Forum Working Group on Deposit Insurance, September 2001, Basel, Switzerland.

<sup>3</sup>See Garcia G. G. H. (2000), “Deposit Insurance: Actual and Good Practices”, International Monetary Fund, *Occasional Paper No. 197*, September 2000.

## 1. **OBJECTIVES**

### **Phase One**

The following are possible public-policy objectives of the DPS, which are in line with the provisions of the Act:

- a) Protect small and less-financially-sophisticated depositors.
- b) Enhance financial system stability through minimising chances of small depositors to cause bank runs, and thereby contributing to an orderly payment system;
- c) Enhance competition in the financial sector by mitigating some of the competitive barriers in the deposit-taking industry.

### **Phase Two**

In addition to the above, in Phase Two, legal means and procedures should be found to facilitate the DPS to also enhance financial system stability through:-

- i) creating formal mechanisms for participating in resolving failing/failed deposit-taking institutions;
- ii) participating in avoiding and/or resolving a financial crisis.

## 2. **FUNCTIONS**

The Scheme should do all things necessary or incidental to the public-policy objectives of the DPS.

### **Phase One**

In Phase One, through provisions of Part XII of the Act, together with regulations promulgated under Section 81 of the Act, the DPS will be able, in fulfilment of its public-policy objectives, to:-

- a) manage the Deposit Protection Fund (the DPF);
- b) compensate protected depositors in failed contributory institutions promptly;
- c) set and collect premiums from contributory institutions;
- d) inform the public of its roles and responsibilities and the modalities of the DPS;

- e) analyse information received from the supervisory, regulatory authorities and elsewhere to protect the DPF;
- f) communicate its concerns over problem contributory institutions to the Ministry of Finance and Economic Development (the Ministry) and the Reserve Bank of Zimbabwe (the Reserve Bank).

Under the Act as it stands, the DPS has no power to resolve failing or failed contributory institutions; it cannot interfere with the management of contributory institutions in any way at all. Any such interference must be effected by the Reserve Bank through Parts IX and X of the Act, which deal with the supervision, curatorship and winding up of banking institutions.

Nor does the DPS have a general power to set conditions and standards for the provision of deposit protection. The Minister of Finance and Economic Development (the Minister) is able to prescribe the classes of deposits that are “protected deposits” for the purposes of Part XII of the Act<sup>4</sup> and, by regulation, to limit the amounts payable to depositors<sup>5</sup>, but that is about as far as the Act goes.

The Board also has no power to decide which applicants obtain an insurance policy of deposit insurance. Under Section 68(2)(a) of the Act, the Board can insure itself against liability, but it cannot refuse to allow banking institutions to become contributory institutions. Section 71(1) of the Act states that “every registered banking institution shall be liable to pay contributions to the Fund”.

Thus, in Phase One, the DPS will not exercise any functions relating to:- resolving failing or failed contributory institutions; curatorship; setting of conditions and standards for the provision of deposit protection.

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<sup>4</sup> See Para. (a) of the definition of “protected deposit” in Section 66(1) of the Act.

<sup>5</sup> See Section 72(2) of the Act.

### **Phase Two**

In this regard, in Phase Two, legal channels should be established to authorise the DPS to perform the following additional functions:-

- g) participate in resolving failing or failed contributory institutions by structured early resolution;
- h) set conditions and standards governing the terms on which deposit protection will be provided;
- i) decide which applicants obtain insurance policy of deposit insurance.

Functions (g) and (h) are necessary if the DPS is to minimise risk to the DPF. Function (i) has the advantage of introducing flexibility into the procedures pertaining to the admission of deposit-taking institutions into the DPS, by providing a mechanism to deter deposit-taking institutions under curatorship or insolvent banking institutions from participating in the DPS. This would go a long way to foster credibility and avoid bad perceptions about the Scheme, which could emanate from allowing unviable banking institutions to participate in the DPS. Furthermore, it would facilitate better management of the DPF.

### 3. **POWERS OF THE DPS**

At a minimum, the DPS requires a number of basic powers and legal authorities to ensure that it can meet its obligations to depositors promptly, thereby maintain and/or enhance public confidence in the financial system.

#### **Operational issues**

The following are the powers, which the Act has conferred upon the DPS:

##### a) **Phase One Operational issues**

The fundamental operational issues that have been addressed in law are:

##### i) ***Organisational Structure and Governance***

- A. The DPB is a separate legal entity<sup>6</sup> but it is not independent of the Reserve Bank of Zimbabwe (the

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<sup>6</sup> See Section 67(2) of the Act.

Reserve Bank) because the Governor of the Reserve Bank is the chairman and his two deputies are members, and jointly they constitute half the DPB's membership.<sup>7</sup>

- B. There is a clear delineation of roles as between the DPB, on the one hand, and the Reserve Bank and the Ministry of Finance and Economic Development (the Ministry) on the other. This is because, as indicated above, the Reserve Bank is responsible for the supervision or management of ailing banking institutions and the Board has no role whatever to play in that regard. Indeed, there is need for role clarity between the various financial safety-net player(s). The financial safety-net (player(s) need to co-operate especially in times of financial crisis. The clear designations of roles and responsibilities of all safety-net players in Zimbabwe to avoid misunderstanding and duplicative efforts on the part of officials responsible for the stability of the financial sector is vital, particularly in times of a financial crisis.
- C. The DPB's lack of independence means that it is unlikely to take action that may be unpopular with certain interest groups - at least, not if those interest groups have the ear of the Reserve Bank.
- D. Section 67 of the act contains provisions relating to composition of the DPB. It must have six members, no more and no less. Three of the members – the Governor of the Reserve Bank and his two deputies – are *ex-officio* members, so they remain members of the DPB so long as they are in office as Governor and Deputy

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<sup>7</sup> See Section 67(1) of the Act.

Governors, respectively. The terms of office of the other three members can be staggered, since the Governor fixes their terms, as well as other conditions of service applicable to them.<sup>8</sup> During their terms of office these other three members enjoy reasonable security of tenure, since they can be dismissed only on limited grounds<sup>9</sup>, and of course, the Governor and his deputies enjoy complete security of tenure (at least in so far as their membership of the DPB is concerned). As already indicated, there is no provision for the appointment of independent members to the DPB, and the Ministry is not represented.

It would appear it is possible for the Minister of Finance and Economic Development (the Minister) to make regulations under Section 81 of the Act stating that persons nominated for appointment to the DPB under section 67(1)(c) must not be current employees of contributory institutions, though ideally it would have been better if Section 81 had expressly empowered the Minister to do this.

It would certainly be possible to make regulations empowering the DPB to set up consultative committees or councils consisting of current employees of contributory institutions. Indeed, the DPB could probably do so without the need of regulations.

There is no provision in the Act for members of the DPB to have immunity from suit for acts done in good faith. It would appear regulations could be made conferring such immunity on the DPB or its members.

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<sup>8</sup> See Section 67(3) of the Act.

<sup>9</sup> See Section 67(4) of the Act.

### **Phase Two Operational Issues**

In line with Guidance on the establishment of an effective deposit protection system, in Phase Two of the implementation programme, the DPS should be transformed into an independent entity, separate from the regulatory, supervisory and the Central Bank. of the Reserve Bank (Banking Supervision Department) and the DPS have different, although complementary, responsibilities. There are likely to be a number of conflicts of interest if all responsibilities are vested in one entity. This notwithstanding, these financial safety-net players need to co-operate especially in times of financial crisis. The central bank may find it difficult to delineate its responsibilities as a guardian of monetary policy and lender-of-last-resort from those of supervising deposit-taking institutions and operating the DPS, even if they may be separate departments. Added to this, is the fact that the objectives of the three entities may conflict.

In order to act in line with law in a fair and even-handed manner, in Phase Two, the DPS staff must be freed from any pressures than can cause certain individuals, companies, or economic sectors to enjoy and win exceptions from laws and regulations, a phenomenon commonly known as “forbearance”.

The board of directors of the DPS should reflect its independent status. Thus, in Phase Two, the board members of the DPS should be comprised of individuals with the requisite knowledge who understand the organisation’s activities as well as the environment in which it operates, and should have authority to take decisions. The DPS should have access

to the input of the views of the other safety-net players and relevant interested parties. Members of the board and management of the DPS should be subject to a fit-and-proper test, and they should be free from conflict of interest. See Annexure A, for a list of what some commentators view as the characteristics of an ideal independent board of directors for a DPS.

### ***Conclusion***

By way of concluding this part of the paper, it can be observed that there are a number of forms of governance that can be adopted by the DPS. The form of governance adopted should mirror the mandate and the degree to which the DPS is legally separated from the other financial safety-net players.

#### ***ii) Operating and Budget procedures***

##### **Phase One**

As a basic operating guidance tool, the Minister will make regulations governing the DPB's procedures, the way in which it exercises its functions,<sup>10</sup> and specify its corporate governance rules clearly. This type of a document should outline the manner in which the DPS's general business will be conducted and how the authorities granted to it by law may be exercised. The DPS governance systems and practices should evolve on the strength of sound strategic planning, risk-management process and good internal control and audit systems. The governance arrangement should be transparent and subject to clear oversight and accountability. **(Consultant to propose the regulations, governing the DPB's procedures and the way in which it will exercise its functions, to be made by the Minister)**

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<sup>10</sup> See Section 81(2)(e) of the Act.



iii) *Operating powers*

**Phase One**

For purposes of functioning efficiently and effectively, the DPS must be granted certain legal authorities. Under Section 67(2), the DPB is vested with legal authority to “perform all acts that bodies [corporate<sup>11</sup>] may by law perform.” This provision empowers the DPB to:-

- A. employ staff on a permanent and temporary basis. This authority also enables the DPB to quickly adjust staffing levels to address rapid changes in the level of failures of contributory institutions;
- B. delegate its day-to-day running duties to the employees of the DPB;
- C. indemnify its employees even though, as noted above, it enjoys no indemnity itself. Holding employees personally liable for their official actions may cause the employees to renege on their official duties;
- D. enter into contracts to obtain goods and services. This is an essential power that should be vested in the DPS. Undue restrictions on the DPS’s capacity to contract can make it difficult for the DPB to fulfil its responsibility properly;
- E. sue and be sued in its name as provided for in section 67(2) of the Act. This is a fundamental power that can be utilised to protect the interests of the DPS.

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<sup>11</sup> The word “corporate” has been inadvertently left out of the section.

b) **Powers needed to perform the basic Deposit Protection Function**

i) *Control over entry and exit*

**Phase One**

- A. The only institutions that can become contributory institutions under Part XII of the Act are registered banking institutions.<sup>12</sup> So other types of deposit-taking institutions, such as building societies and the Post office Savings Bank (P.O.S.B.), can only be brought into the scheme by a statutory instrument issued by the Minister.
- B. As mentioned above, all registered banking institutions are liable to contribute, and the DPB cannot exclude any of them from the scheme.
- C. On the other hand, the DPB could be given a say in the decision whether or not to register a banking institution. Although Section 8(2) of the Act provides for only the Reserve Bank to be consulted by the Registrar of Banks and Financial Institutions (Registrar), when he/she is considering an application for registration, that does not mean that no one else can be consulted. It would appear it is possible for the Minister to make regulations under Section 81 of the Act requiring the registrar to consult the DPB as well.
- D. Under the Act as it stands, there is no way that a contributory institution's participation in the scheme can be terminated by the DPB, so long as the institution remains registered.

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<sup>12</sup> See the definition of "contributory institution" in Section 65(1) as read with Section 71 of the Act. The words "or any other enactment" in the definition do not mean regulations made under the Act.

### **Phase Two**

In Phase Two, efforts will be made to fulfil the requirements of guidance on establishment of a DPS, which stipulate that:

- A. In coming-up with the decision of which types of deposit-taking institutions should be members of the DPS, factors such as types of existing institutions and the public-policy objectives of the DPS should be taken into account.
- B. The rules for entry and exit should be clear and transparent and should establish a minimum basis for eligibility for deposit protection.
- C. In order to minimise risk to the DPF, the DPS should have a role in determining which institutions are insured, since the deposit protection scheme would bear the risk of loss when an insured institution fails.
- D. For new entrants into the market, the DPS should be provided with an opportunity to add its input into the “application to be licensed” process by having the licensing authorities make copies of the relevant application materials to the DPS and permitting the DPB to comment on these materials.

### *ii) Managing the DPF*

#### **Phase One**

Section 68 of the Act provides for the investment of the moneys of the DPF. It is necessary to determine how the funds can be invested. To this end, regulations made under Section 81 of the Act could have the effect of limiting the DPB’s discretion in investing the DPF. In general terms, the requirement should be to invest monies in the DPF only in the safest and most highly liquid instruments to ensure that funds are available to fulfil the DPB obligations.

iii) *Compensation of protected depositors*

**Phase One**

Section 72 of the Act has provisions relating to payment of compensation to depositors in the event of insolvency of a contributory institution. Regulations under Section 81 of the Act could specify the maximum amount that will be paid to depositors<sup>13</sup> and the nature of deposits that are to be protected under the scheme.<sup>14</sup> The procedure for paying compensation, as well as a reasonable timeframe for effecting payment for compensation can also be prescribed. (**Consultants to make recommendation on all aspects of compensation of protected deposits**).

iv) *Funding*

*Phase one*

For purposes of compensating depositors and financing of its day-to-day operating expenses, the DPS has the authority to obtain adequate financing through:

- A. power to obtain extra funding through insurance (assuming it can find an insurer willing to take the risk)<sup>15</sup>;
- B. premiums, whether regular or special<sup>16</sup>; and
- C. through borrowing.<sup>17</sup>

If contributory institutions fail or refuse to pay their contributions, they can be prosecuted or sued.<sup>18</sup>

v) *Inspection Powers*

**Phase One**

The Act does not give the Board any powers of inspection. Thus in Phase One the DPS will only be monitoring the

<sup>13</sup> See Section 81(2)(g)(i) of the Act.

<sup>14</sup> See Para. (a) of the definition of “protected deposit” in Section 65(1) of the Act.

<sup>15</sup> See Section 68(2)(a) of the Act.

<sup>16</sup> See Section 71(3) and 81(2)(f)(iv) of the Act.

<sup>17</sup> See Section 68(2)(c) of the Act.

<sup>18</sup> See Section 71(2)-(5) of the Act.

performance of contributory institutions through appropriate information provided to it by the Banking Supervision Department. To this end, regulations should be made requiring such information to be supplied to it.<sup>19</sup>

The DPB's staff cannot be present at on-site inspections of troubled institutions unless the staff were appointed as supervisors under Section 46 of the Act.

### **Phase Two**

During Phase Two legal powers should be created to permit the DPS to:-

- A. not only monitor and assess the performance of contributory institutions and their risk to the deposit protection provider, but also undertake special examination in its own right, or request the supervisor to undertake a special examination of a contributory institution that the DPS suspects is in financial difficulties;
- B. be present at the on-site inspection of troubled contributory institutions;
- C. have the right to receive information from both the Registrar and the Banking Supervision Department, and request special on-site examinations.

### *vi) Imposing penalties*

#### **Phase One**

In Phase One, the DPB will have no power to impose penalties on contributory institutions that are operating with undue risk. The Reserve Bank may impose penalties for such conduct under Section 47(1)(d) of the Act.

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<sup>19</sup> See Section 76(3)(d) of the Act.

**Phase Two**

As noted above, Section 71 of the Act has provisions, which specify the imposing of penalties relating to failure to pay contributions. In Phase Two, it should be made possible for DPS to take necessary action and impose penalties, where applicable, against contributory institutions that are operating outside the established risk and banking business conduct regulations.

In addition, the principles of actuarial precision and cross-subsidisation are both desirable up to some degree. Setting the premiums to capture the DPF's exposure to risk caused by a contributory institution from the initial stages of the DPS is a more complex undertaking. For these reasons the architects of the DPS in Zimbabwe have decided to keep it simple until expertise in this area has been developed. To the extent that a flat-rate premium may be perceived as encouraging risk taking by some contributory institutions, there must be a mechanism to impose financial sanctions or penalties to deter such reckless behaviour.

**vii) Termination of Insurance Policy****Phase One**

As already indicated above, in Phase One, the DPB has no power to terminate the protection afforded to depositors of any contributory institution.

**Phase Two**

In order to engender confidence in the DPS, Phase Two should witness the clear specification of rules of winding-up a contributory institution. The DPS should have authority to terminate or revoke the policy of deposit protection, as a result of a contributory institution having insolvency problems and

taking legal steps for dissolution of a troubled contributory institution.

**d) Information Requirements**

**Phase One**

*i) Compensation of protected depositors*

In order to compensate insured depositors, the DPS will need to have access to the names and deposit account balances of all depositors in the failed contributory institution before it can compensate protected depositors. This information should be provided as of the date and time of failure and should include information about transactions that occurred before the failure but which were not included in the account balances. For purposes of easiness and efficiency, this information needs to be transmitted in an electronic format. It is important that the information be obtained as soon as possible from the failed contributory institution to enable the DPS to start the deposit insurance payment process. The DPS should have power to verify this information through audits performed by itself, the Banking Supervision Department, or an outside auditor. Regulations can certainly be made under Section 81 of the Act allowing the DPB access to the names of depositors in failed institutions, the balances of their accounts and details of their transactions. Regulations can also provide for audits.

*ii) Assessment of premiums*

**Phase One**

In order to fulfil its mandate of setting and collecting assessed premiums, the DPS will need additional powers. For purposes of determining the appropriate

assessed premium amounts, the DPS must have the information necessary to calculate the assessments. In Zimbabwe, it is being recommended that, initially, assessments be based on total domestic deposits on a flat premium rate basis. The DPS must have the ability to obtain the necessary information, on a regular basis from the supervisor or contributory institution directly. Furthermore, the DPS should have the ability to verify the information. It should be possible for the verification to be done through targeted or random audits performed by the DPS, the Banking Supervision Department or an outside audit firm. As pointed out above, regulations can be made requiring the Banking Supervision Department to give the DPB information on contributory institutions. Regulations could also require the institution to give this information directly to the Board.<sup>20</sup>

*iii) Participating in Resolving failed institutions*

**Phase One**

As noted above, during Phase One of the DPS, the DPB can be given information about failing/failed contributory institutions but it cannot be directly involved in their management, rehabilitation or winding-up of such institutions.

**Phase Two**

The DPS should be able to participate in resolving failed institutions. It, therefore, must have access to detailed and accurate information pertaining to a contributory institution's deposit liabilities, as well as its asset base. This information should come directly

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<sup>20</sup> See Section 81(2)(f)(iii) of the Act.



from the contributory institution itself. The DPS should also be furnished with the best possible information about potential acquirers of the contributory institution for purposes of ascertaining that only these entities that have requisite financial resources and qualified management can acquire failed institutions. Lastly, the DPS should be able to get information of contractual obligations, other agreements, and potential litigation to estimate best-cost solutions.

iv) **Receiver or Liquidator**

**Phase One**

The DPB cannot act as receiver or liquidator of a failed institution. Some have even gone on to argue that it would not even be desirable to enact legislation allowing it to assume this role. The reasoning being that by paying out protected depositors, the DPB would become a creditor of the institution concerned and, therefore, would lack the independence that a liquidator should have.

**Phase Two**

The Steering Committee, however, is of the opinion that the DPS should also act as a receiver or liquidator of all failed contributory institutions. In this regard, Phase Two should create the necessary machinery for that to happen. In this capacity, the DPB will need even more detailed information about the assets and liabilities of the contributory institutions under their control to properly manage the receiverships. Further to this, the DPS should be aware or made to be aware of all contractual obligations and other agreements of the failed contributory institutions, as well as any pending litigation.

In cases of this nature, the DPS usually would succeed to the rights, titles, powers and privileges of the insured contributory institution and therefore must diligently identify every obligation and all the rights and interest that contributory institution had prior to its failure.

**vi) The DPB should not perform supervisory or regulatory role**

**Phase One**

In order to avoid duplication of roles of financial safety-net players, the DPS in Zimbabwe should not assume the role of a supervisor or Registrar of contributory institutions. Instead, it should enter into a strategic partnership with already existing safety-net player(s) who are already playing such role(s) in Zimbabwe. The DPB can be given information about contributory institutions. There is need for regulations to be made to allow the free flow of information from the Banking Supervision Department and the Registrar to the DPS, but it cannot directly supervise or regulate institutions.

**d) Additional Powers and Authorities**

***i) Intervention***

The DPB has no power to intervene in a failing contributory institution, as already pointed out, nor could regulations be made empowering it to do so. It would not, therefore, be able to take any “prompt corrective actions” against a troubled contributory institution. It is doubtful that regulations could give it power to lend money to such an institution, either.

ii) ***Participating in resolutions***

**Phase One**

For the reasons given above, in Phase One, the DPB will not be able to arrange deposit-taking institution resolution transactions.

**Phase Two**

In Phase Two, the DPS's responsibilities are to be expanded to include the participation in the arranging of deposit-taking institution resolution transactions. It, therefore, should have additional powers over and above the information requirements discussed above. In particular, it should have the legal authority to be consulted on the most appropriate resolution transaction method, among which should include the implementation of purchase-and-assumption transactions, establishment of bridge banks, and facilitation of protected deposit transfer. To the extent that every deposit-taking institution is unique, the DPS should be consulted and have a say in the structuring resolution transactions. In this kind of scenario, the DPS should be vested with on-site access to the records of the failing institution before its closure so that the DPS can become familiar with, and properly estimate, the value of the assets and liabilities at stake.

iii) ***Receivership and Liquidation***

**Phase One**

As observed above, the DPB cannot act as the receiver or liquidator of a failed contributory institution during Phase One.

**Phase Two**

Conditions to allow the DPB to act as a receiver or liquidator of a failed deposit-taking institution during Phase Two. In this capacity, the DPB should have fiduciary duty to secure as much value as possible from that institution. For purposes of maximising recoveries on claims held in a failed contributory institution, the DPS should be also granted authority to collect all obligations due to failed institutions; sell or otherwise dispose of its assets; administer the claims notification, review and determination process; and deal with all contractual obligations and pending litigation. In order to execute this efficiently and effectively, the law should provide that the DPS succeeds to all rights, titles, powers and privileges of the failed institution. The DPS should be vested with the power to contract-out functions whenever it does not have the capacity, in terms of expertise or other resources to manage or dispose of an asset properly or otherwise carry out its responsibilities as a receiver or liquidator.

**Conclusion**

As a final thought on Powers, the DPS must be vested with adequate powers and sufficient legal authority to fulfil its public-policy objective(s). There are certain basic powers and legal authorities that the DPS needs to ensure that it can meet its obligations to depositors in a timely fashion and thus maintain and/or enhance public confidence. Beyond these, the DPS needs all of the powers and legal authorities necessary for meeting its assigned responsibilities efficiently and effectively.

As noted above, the DPS's mandate and responsibilities will evolve over time, to eventually include compensating protected depositors, participating in resolution process and/or serving as the receiver and liquidator of failed institutions. In order to execute these functions effectively, the DPS need more powers than those of a pay-box system, but fewer than those of a fully-fledged bank supervisor and regulator. It goes without saying that providing the optimal legal framework and powers for the DPS will go a long way to ensure the stability of Zimbabwe's financial system.

#### **4. Specific Design Features**

This part of the paper deals with specific design features, such as which institutions should be eligible for contributory institution status, what financial products should be covered and the level of insurance coverage cap. A variety of different factors should be taken into account when determining which deposit-taking institution should qualify to be contributory institutions for purposes of creating a DPF. Of paramount importance is the question whether the potential contributory institutions are subject to strong prudential supervision and regulation. Explicit eligibility rules for participating in the DPS should exist and participation should be compulsory. Furthermore, it is paramount that what is an insurable deposit is clearly defined in law or private contract.

##### **a) Membership**

###### **Phase One**

The participation in DPS is compulsory, for all registered banking institutions,<sup>21</sup> in order to avoid adverse selection. If participation is voluntary, it is possible that strong banks may opt out. Assuming the cost of failures is high, this may impact negatively on the financial solvency and the effectiveness of the DPS. To the extent that voluntary participation implies that there is no universal protection of small and less-financially-sophisticated depositors, it runs counter to one of the

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<sup>21</sup> See Section 71(1) of the Act.

most important public-policy objectives of the scheme. During an impending financial crisis, this may hasten instability in the deposit-taking industry due to depositors of non-participating deposit-taking institutions transferring their funds to participating deposit-taking institutions. For the aforementioned reasons, mandatory participation by deposit taking institutions, which qualify to be contributory institutions, is being prescribed.

**b) Types of Institutions to participate**

**Phase One**

Participation should be compulsory for all eligible contributory institutions. These should include:

- i) Every banking institution registered under the Act.
- ii) Any of the institution referred to in section 3(3) of the Act, and specified by the Minister.

For purpose of item b (ii), immediately above, the Minister has to publish a notice in the Gazette applying Part XII of the Act to building societies and the P.O.S.B. If he did so, it would make participation in the scheme compulsory for those institutions as well as for banking institutions.

**c) Options for granting permission for an eligible deposit-taking institution to participate in the DPS**

**Phase One**

No option is open at present, since all eligible contributory institutions must participate, but the Board can and should be consulted by the Registrar when considering applications for registration under the Act.

Guidance to establishment of deposit insurance identifies two circumstances that may require different approaches to granting authority for a deposit-taking institution to participate in the DPS and these are:-

- i) when the DPS is established;

- ii) when authority to participate is being granted to a new entrant in an existing DPS.

In Phase One, policymakers will be faced with the challenge of minimising the risk to the DPF, while granting extensive membership. Practitioners in this specialised field identify two options of offering this membership:-

- i) automatic membership;
- ii) requiring deposit-taking institutions to apply for entry.

On the face of it, automatic participation in the DPS by all eligible contributory institutions would appear to be the simplest option to administer in the short term. There is a downside to it, however the DPS will be confronted with the unenviable task of having to contend with contributory institutions, which create an immediate financial risk or that pose serious adverse consequences for the DPS.

As an alternative, deposit-taking institutions may be required to apply to participate in the DPS. This option has the beauty of allowing the DPS to have flexibility to control the risks it assumes by establishing entry criteria. In addition, this alternative can act as further enhancement to compliance with potential requirements and standards by the deposit-taking institutions. This scenario requires an appropriate transition plan to be put in place that outlines a transparent criteria, process and time-frame for attaining membership in the DPS. **(Consultants to investigate the possibility of adopting this option from the on-set, because of the risk-minimising advantages it offers to the DP)**

e) **Coverage**

i) *Scope of deposits to be covered*

**Phase One**

Regulations can and must be made defining precisely what deposits are covered by the scheme<sup>22</sup>. This important question cannot be left to case-by-case decisions by the DPB.

Indeed, among the most crucial pieces of confirmation that the public needs is a clear and enforceable definition of what is a deposit. The definition of a deposit – its principal and interest – has to be clearly defined in law; regulation can amplify specific details. Precision and legal enforceabilities are critical to providing certainty regarding coverage and to facilitating the resolution of disputes. To keep the insurance scheme simple, the DPS should extend insurance coverage to all categories of deposits, i.e. demand deposits, savings, time deposits. **(There is however, need for Consultants to investigate further the desirability of extending coverage to negotiable certificate of deposits, Class ‘B’ and Class ‘C’ shares and foreign currency deposits.)**

To the extent that one of the public-policy objectives of the DPS is to protect small and less-financially-sophisticated depositors, it is being recommended that deposit balances held by senior officers, directors and principal owners of the contributory institutions should be excluded. This is because it is most likely such depositors are financially sophisticated enough and they may stand to benefit because of prior knowledge of bank failure of a contributory institution under their control. **(Consultants to investigate further and advise accordingly)**

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<sup>22</sup> See the definition of “protected deposit” in Section 65(1) of the Act.



*ii) Deposit Protection Coverage Limit*

**Phase One**

Regulations can fix the level of coverage under the scheme.<sup>23</sup>

The deposit protection coverage cap should initially be set at a level whereby a high percentage of depositors are covered, but only a moderate percentage of total deposits are insured. International practice recommends coverage of around 90% of depositors and approximately 20% of total deposits as an acceptable level. Others recommend 2-3 times per capita GDP. Whatever coverage level is arrived at, it should be credible, internally consistent with other design features, and meet the stated public-policy objectives of the DPS, at the same time bearing in mind the relationship between coverage levels and moral hazard. **(Consultants will be commissioned to come up with the coverage level).**

Given the need for effective limitation of coverage and the importance of its role in contributing to the financial stability, while simultaneously keeping information requirements at a reasonable level, the DPS should apply deposit protection on a **per deposit-taking institution** basis, **(Consultants to investigate further and advise appropriately)**

*e) Co-insurance*

**Phase One**

It might be possible to write co-insurance into the scheme, at least to the extent of providing that protected depositors get only a proportion of their deposits refunded. The design features document does not recommend that there should be

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<sup>23</sup> See Section 81(2)(g)(i) of the Act.

any provision for co-insurance. Below are the reasons why co-insurance is not recommended.

Coinsurance is a practice that ensures that a depositor partially bears risk of loss due to the fact that on being obliged to compensate a protected depositor, the DPS is only required to payout a proportion of his/her protected deposit. It is, however, viewed by some as being contrary to the primary objective of insuring small and less-financially-sophisticated depositors. Bearing in mind that a relatively low protection coverage cap is being proposed, the paying of small and less-financially-sophisticated depositors less than the full insured amount seems to be unwarranted. Further, the adoption of coinsurance as a design feature of the DPS in Zimbabwe would impose burdensome record-keeping nightmares on the deposit insurer.

Without coinsurance, the small and less-financially-sophisticated depositors, who are in the majority, would be compensated in full by the DPS. After all, there should be sufficient depositors with deposit balances above the protected amount to exert enough market discipline pressure on the deposit-taking institutions. This is one area where international practice varies, depending on local market conditions. The DPS should, therefore, ensure that deposits up to the applicable coverage cap are fully covered. **(Consultants to investigate further and advise appropriately)**

*f) Funding arrangements*

**Phase One**

A. Funding of the scheme will be on an *ex-ante* basis.<sup>24</sup>

As regard to funding methodology, there are two options, *ex-ante* and *ex-post* basis. *Ex-ante* funding refers to a system

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<sup>24</sup> See Section 66(2)(a) of the Act.

where a fund is accumulated through contributions by contributory institutions to build and maintain the DPF. *Ex-post* funding is a practice whereby contributory institutions pay premiums or levies only after failures have happened. This implies that under such funding mechanism assessments are likely to be done during an economic downturn. *Ex-post* funding has the advantage of improving inter-bank monitoring because each contributory institution has an incentive to minimise the costs pertaining to the failure of a member of the DPS. There is a downside to this however. Due to the fact that assessments and collections take place after a bank has failed, it can be argued that prompt re-imburement of protected depositors may be difficult to achieve, particularly if other funding mechanisms are unavailable at the time. In addition, contributory institutions that fail will not have contributed to funding the costs relating to their failure.

It is, therefore, recommended that Zimbabwe adopt the *ex-ante* funding approach. This approach has the advantage of smoothening the premiums paid by contributory institutions over the course of a business cycle. To the extent that all contributory institutions will pay premiums to build and maintain in the DPF, it implies that contributory institutions that subsequently fail will have contributed to pay for the cost of their failure. *Ex-ante* funding, therefore, enhances deposit-taking institutions' contribution to the cost of their failures. **(Consultants to work out premium rate and target size)**

B. Initially there is a need for a financial contribution to the DPS based on estimated first year expenses, including the projected costs of handling those deposit-taking institutions, which are considered likely to fail in the next year. No new government funding should be expected. **(Consultants to work out these expenses and costs)**

C. Overtime, the DPS should be financed by annual premiums paid by contributory institutions.<sup>25</sup> The deposit base for the premiums can be either total domestic deposits or total amount of protected deposits. Using total domestic deposits has the advantage of being the easiest to compute or assess premiums. Its disadvantage is that contributory institutions with mostly small accounts (balances under insurance limit) pay less dollar of protected deposits than contributory institutions with mostly high balance accounts, which are largely over the insurance limit. Basing the assessment charges on total protected deposits has the benefit of the contributory institutions paying premium on actual amount of protected deposits. It is however, extremely difficult to track amount of protected deposits.

Given the fact that one of the DPS's public-policy objective is to enhance financial system stability, even depositors with deposit balances over the insurance limit cap benefit from Scheme, it is being recommended that the calculation of premiums be based on total domestic deposits.

D. There are two methods of calculating premiums and these are:- flat-rate and risk-based system. The flat-rate system has the beauty of being relatively easy to use for calculating and administering assessed premiums. The risk based premium assessment has the following advantages:- rewards safe and sound operations; and imposes risk burden on banks posing highest risk profile. The downside is that weakest banks pay heaviest premiums; requires supervisory authorities to accurately and timely assess bank risk profiles; requires independence for supervisors and regulators, as well as insulation from political pressure. Given the aforementioned

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<sup>25</sup> See Section 66(2)(b) of the Act.

merits and demerits of the two premiums assessment methods, it is generally felt that the flat-rate method of premium assessment method should be used from the on-set. The risk-based premiums method could be adopted after the DPS and Banking Supervision department have built capacity in this highly technical undertaking.

E. In the event of the DPS becoming insolvent or otherwise runs out of funds, it will have power to borrow.<sup>26</sup>

F. *Ex-ante* funding has the potential effect of removing capital from the banking system as a result of the fact that premiums paid to the DPS cannot be employed for other purposes. It is, therefore, of paramount importance that the DPS should ensure that monies in the DPF are prudently managed and readily available to meet losses as they are realised. This is achievable through implementing appropriate investment policies and procedures, and by instituting sound internal controls, disclosure and reporting systems. **(Consultants to advise on management of DPF)**

G. The Board of Directors of the DPS have authority to vary the future premium rate<sup>27</sup> for the purposes of achieving a reserve fund equal to, at best, a certain level (percentage) of protected deposits within a reasonable time period. **(Consultants to work out the percentage level)**

H. It is being recommended that premiums should be accounted for as an expenses item and therefore should be tax deductible. They should not be accounted for as an asset of the contributory institution. The payment of contributions to the DPS should be the legal obligation of each institution, and a

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<sup>26</sup> See Section 68(2)© of the Act.

<sup>27</sup> See Section 71(3) and 81(2)(f)(iv) of the Act.

cost of doing business in Zimbabwe. Thus, the expenses should be tax-deductible. This will depend on the attitude of the Ministry.

I. Whether the income and capital accruals of the DPF are taxable will depend on the attitude of the Ministry, as reflected in the Income Tax Act and the Capital Gains Tax Act. At present it must be assumed that the Fund's income and accruals will be taxable.

The Income of the DPS should be exempt from income tax and all other taxes, and any property of the DPS should be exempt from all duties and rates levied by the Government of Zimbabwe. It is being recommended that the Steering Committee take up the matter with the Ministry.

J. Section 70, subsection (2) of the Banking Act (Chapter 24:20) provides for the Books of Accounts of the DPB to be audited by the Comptroller and Auditor-General only.

### **Phase Two**

In view of the fact that these funds comprise mainly of the contributions from the private sector, it would be more transparent to have the accounts of the DPF audited by an independent internationally reputable firm of Auditors. This may also add to credibility of the DPS, especially in times when it would like to borrow directly from the market.

### **g) Netting or Rights of set-off**

#### **Phase One**

It would be possible and desirable to provide in regulations that when assessing the amount of a protected deposit, any amount owing by the depositor to the failed banking institution should

be deducted – in other words, that the net amount only should be considered.

If the net amount is negative, for example, if the depositor is working on an overdraft, he will be a net debtor of the banking institution and, as such, liable to repay the amount he owes in the same way as any other debtor of an institution that is being wound up. Whether or not he should repay it is a matter for the institution's liquidator, not the DPB, to decide. Any change in the law in this regard will have to be effected by amendments of the Companies act.

*h) Interrelationships among financial safety-net players in Zimbabwe*

**Phase One**

Obviously the DPB will have to co-operate very closely with the Reserve Bank and the Registrar, but it is doubtful that the co-operation needs to be formalised in a contract.

Guidance on the establishment of deposit insurance expects policymakers to address the DPS relationships and co-ordination with other safety-net players. There is need for close co-ordination in any institutional setting and information sharing among safety-net players is crucial. As outlined in the powers of the DPS, a deposit insurer's information differs significantly in line with its mandate and powers. Granted the sensitivity of specific deposit-taking institution's information and need to maintain confidentiality, although informal arrangements for information sharing and co-ordination can be feasible, clearly and/or specific arrangements are highly desirable. The challenges inherent in maintaining open communication channels vindicate the efficacy of formalising these arrangements. An array of vehicles for formalising these arrangements includes:-

- A. legislation;
- B. memoranda of understanding;
- C. legal agreements
- D. a combination of these vehicles.

These arrangements are cardinal to providing a general and orderly framework for safety-net players to interact and co-ordinate their related activities. It being understood, however, that rules regarding confidentiality of information should apply uniformly to all safety-net players. In this regard, attached, as Annexure B, is a suggested framework, which should govern the interrelationship among safety-net players in Zimbabwe.

**i) Public awareness and information to Depositors**

The DPB has power to publish information on its activities, and regulations could be made under Section 81 of the Act compelling contributory institutions to publish similar information.

For purposes of ensuring the effectiveness of the DPS, it is essential that the public be informed about its benefits and limitations. International experience suggests that the characteristics of a deposit protection scheme need to be published regularly so that its credibility can be maintained and enhanced. In this regard, the responsibility of deposit-taking institutions is outlined below:-

A. Contributory institutions should make information available in a readily comprehensible form in explanatory material to actual and intending depositors about:-

- (aa) the DPS or other schemes to which they belong;
- and



(bb) a summary of the provisions of the DPS or schemes, including details of the amount and scope of cover offered;

B. Contributory institutions should inform, on request, actual and intending depositors about the condition for compensation and the procedures for claiming it;

C. The information point j(i) and j(ii) above should be in all national languages;

D. Advertisements inviting a deposit (or that might lead to a deposit being made) may not refer to cover offered by the DPS or schemes to which the contributory institution belongs. However, advertisements may make a factual reference to the existence of the DPS or schemes to which a contributory institution belongs;

E. The information required by point j(i) and j(ii) above given in explanatory material to actual or intending depositors, is not an advertisement for the purposes of point (iv) above;

F. Deposit-taking Institutions, which are not contributory institutions, in the DPS (for whatever reason), should inform actual and intending depositors of that fact in clear and comprehensible terms;

G. The DPS should issue recommended wording for giving the information outline above.

**DEPOSIT PROTECTION SCHEME PROJECT****December 16<sup>th</sup>, 2001****ANNEXURE A****CHARACTERISTICS OF AN INDEPENDENT DPS'S BOARD OF DIRECTORS**

The list is as follows:-

- aa) the board should be comprised of either five or seven members, appointed on a staggered terms of say four years;
- bb) the size of the board should not be unwieldy and should not be so large in number. This will ensure that individual members do not hide among a multitude of members;
- cc) an odd number will allow for easy securing of a majority decision;
- dd) members should have security of tenure for their limited term of office, to facilitate their independence from political interference;
- ee) Board member should only be removed from the Board as a result of gross misconduct defined in law (using comparable standards in other country's laws as a benchmark) to avoid dismissing them on political or flimsy reasons. Terms of office should be on a staggered basis to ensure continuity in membership and not only to retain experience gain, but also avoid losing it at one go;
- ff) the board members of the DPS should be nominated by a competent Authority, which would ensure that Government would be responsible of the integrity and effectiveness of the board, and the channel for the DPS's accountability through the Government to the Public would be created;
- gg) in case it backs the DPS, the Government should appoint board members who have fiduciary interests in protecting the public. These members should serve the public interest and not focus on the particular concerns of the deposit-taking industry, sectoral interests, or politicians' preferences;
- hh) The DPS's board should have two ex-officio members to represent the Ministry of Finance and Economic Development, and represent the Reserve Bank of Zimbabwe. The Government needs to be represented on the board, but should not dominate it by subscribing a majority of the membership or occupy the position of chairman. In case of the Government guarantees the

- DPS and hence bear the costs of any failures, the Ministry of Finance and Economic Development should be represented on the DPS's board.
- ii) the remainder of the board, which should form the majority, should be drawn from outside the Government. This approach serves to protect the political independence of the DPS, and also allows the accessing of the necessary expertise available outside Government circles. One of these outside members should be appointed Chairman. The CEO of the DPB should also be a Board member. This is in recognition of the fact that the CEO has a critical role to play in the operational success of the DPB's business. Furthermore deposit insurance is a specialised knowledge based and is also a highly technical field. The CEO, therefore will bring on-the-job technical expertise to the Board;
  - jj) no current employee of a contributory institution should be allowed to sit on the board. Similarly, major shareholders of contributory institutions, and other individuals with close family or financial linkages (to be defined in law) with them, should not sit on the DPS board. This approach will go a long way to avoid institutions "connected" with a board member from receiving information that would give them an advantage over competitors. Furthermore, bankers might abuse their board membership due to a conflict of interest and try to underfund the DPS, hoping that the Government would be forced to cover additional costs;
  - kk) notwithstanding the above, deposit-taking institutions experience and perspectives is valuable to a DPS. In recognition of this, a consultative council of deposit –taking institutions should be formed to advise the DPS and bring contributory institutions' concerns to the attention of the board;
  - ll) other qualification should be specified in the DPS law. For instance, the law might specify the board members and senior officials should be "fit and proper", have relevant education and/or experience, and other characteristics deemed desirable;
  - mm) As in the case of DPS employees, the law should also grant immunities and protection to board members against lawsuits for official acts, taken in good faith, in the course of their normal duties.

**ANNEXURE B****DEPOSIT PROTECTION BOARD RELATIONSHIP WITH THE SUPERVISORY AND REGULATORY AUTHORITY**

- a) For purposes of improving the ability of the DPS, the Registrar and the Banking Supervision Department to perform their mandates efficiently and effectively, the DPS, the Registrar and the Banking Supervision Department should co-ordinate their activities to achieve this purpose by promoting consultation and exchange of information.
  
- b) This Memorandum of Agreement concerns banking institutions; those institutions referred to in section 3(3) of the Act, and specified by the Minister, and, in certain circumstances, their associates which are regulated by the Registrar hereinafter referred to as “associates” and inspected by the Banking Supervision Department; applicants for legislation as a banking institution, licensing and deposit protection; and in certain instances, their associates.
  
- c) In order to co-ordinate the registration, licensing and deposit protection application processes:
  - i) the DPS, the Registrar, and the Banking Supervision Department will jointly develop a common information package pertaining to applications for registration, licensing and deposit protection;
  - ii) the Registrar and the Banking Supervision Department will inform the DPS of applications for registration or licensing of banking institutions.
  - iii) The DPS will inform the Registrar and the Banking Supervision Department of applications for deposit protection from institution that would be subject to regulation by the Registrar and oversight by the Banking Supervision Department;

- iv) Requests for information from banking institution applicants in support of the registration, licensing and deposit protection application processes will be co-ordinated by the Registrar on behalf of the DPS and the Banking Supervision Department; the Registrar and the Banking Supervision Department should provide the Board with a copy of the information received, on a timely basis;
  - v) The DPS, the Registrar and the Banking Supervision Department should provide each other with access to relevant files pertaining to such applications;
  - vi) The DPS, the Registrar and the Banking Supervision Department will advise each other of their intention or concerns pertaining to the approval or refusal of such applications;
  - vii) Prior to the Register registering and licensing an institution, the DPS management will advise the office of the Registrar whether it intends to make a positive recommendation to the board of directors of the DPS in respect of that institution's deposit protection application subsequent to the applicant's registration.
- d) Risk Assessment Processes
- (i) Examinations
    - A. For purpose of improving the capacity of the DPS, the Registrar and the Banking Supervision Department to undertake their responsibilities efficiently and effectively:-
      1. the DPS requires an understanding of the Banking Supervision Department's examination objectives and procedure;
      2. the Banking Supervision Department requires an understanding of the DPS's assessment requirements; and
      3. in case of the DPS having concerns about risk of a particular contributory institution, it should have an input into the planning and review of the examination work;

B. In this regard, the DPS, the Registrar and the Banking Supervision Department should meet at least annually to provide the DPS with an opportunity to familiarise itself with the Banking Supervision Department's examination programme for banking institutions, and in case of material change in the Banking Supervision Department's examination practices pertaining to such institutions, the Banking Supervision Department will advise the DPS of such changes and meet to discuss them on a timely basis;

C. the DPS, the Registrar and the Banking Supervision Department should meet on a need basis to review the schedule for upcoming examinations of banking institutions. The DPS may request changes in an examination programme. Such a request usually should relate to a contributory institution considered by the DPS to represent a high risk. The Banking Supervision Department should make every effort to accommodate such requests;

D. in cases where the DPS, the Registrar or the Banking Supervision Department have particular concerns regarding a contributory institution, a planning session should be held between the Banking Supervision Department, the Registrar, and the DPS to discuss the examination plan and issues pertaining to the scope of the examination, including the DPS's criteria in respect of specific matters and concerns pertaining to the contributory institutions.

E. The DPS and the Banking Supervision Department should jointly establish criteria to assess whether in respect to contributory institutions covered by the Act and any of the institutions referred to in Section 3(3) of the Act and specified by the Minister:-

1. the operations of the contributory institution are being conducted in accordance with the Banking Regulations;
2. the contributory institution is in sound financial condition;
3. there has been any change in the circumstances of the contributory institution that might

materially affect the position of the Board as an insurer; and

4. the returns made by the contributory institution on which its contributions are based and are substantially correct;

F. the Banking Supervision Department should provide the DPS a copy of its annual report;

G. at the end of an examination, the Banking Supervision Department should, on a timely basis, provide the DPS with copies of:-

1. a report under the Banking Act (Chapter 24:20) to the contributory institution's management; and
2. in cases where the supervisor has agreed to conduct other examination work, a report relating thereto.

H. There are cases where the changes in financial or other circumstances of a contributory institution may, on balance, be too small to warrant an unfavourable report. This notwithstanding, the supervisor and regulator may detect certain unfavourable events or trends that, although not sufficient to result in a qualified or adverse report, could be of importance to the DPS. In such cases, the DPS and the supervisor should recognise the need for oral communications between them to complement or expand upon information received through written communication.

(ii)

#### Monitoring

A. To ensure that early identification of problems is more likely to lead to their resolution, the DPS, the regulator and the supervisor should advise each other of the criteria being used to determine which contributory institutions should be placed on their respective watchlists. The need for prompt and full communication between the DPS, the regulator and the

supervisor is particularly important with respect to contributory institution placed on watch lists. In this regard, the DPS, the regulator and the supervisor should meet monthly:

1. to ensure that each party is aware of the contributory institutions of concern;
  2. to ensure that each party is aware of the other's reasons for placing a contributory institution on its watch list;
  3. to ascertain what course of action each party is planning to take in a situation where corrective measures are called for; and
  4. in cases where a problem contributory institution is relying on the support of associates, to obtain sufficient information to permit the DPS to assess the strength of this support, as well as:-
    - I. the supervisor's assessment about viability, solvency and financial condition of the associate; and
    - II. information about the related party's future business plans and strategic direction, with respect to the contributory institution, in particular.
- B. The supervisor and the regulator should:
1. provide the DPS with monitoring results relating to institutions covered by the Banking Act (Chapter 24:20) and any contributory institution referred in Subsection (3) of Section 3 of the Banking Act (Chapter 24:20) and specified by the Minister on the watch list and, where appropriate, their associates;
  2. provide the DPS with such information in respect of contributory institutions as is agreed from time to time;



3. in cases where there are areas of common concern, participate with the DPS in jointly studies pertaining to contributory institutions.
- C. The Banking Supervision Department, the Registrar, and the DPS should review recent examinations of contributory institutions on the watch list at “pre-DPS board of director” meetings and whenever deemed appropriate. The objectives of such meetings should be to:
1. discuss the findings and conclusions arising from each examination, including:- an assessment of the solvency of the institution, its risk profile and the quality of its internal control systems (including risk management policies, procedures and controls) and the quality of its management, board of directors, and committees, the supervision’s opinion regarding compliance by the contributory institution with statutory and other requirements, including the banking act, Banking Regulations, and Deposit Protection Scheme Regulations;
  2. the institution’s future business plans, strategic directions and risk management policies; and
  3. the examination recommendations, if any;
  4. establish whether the banking Supervision Department and the institution are in agreement with the Banking Supervision Department’s examination assessment;
  5. establish the remedial actions the contributory institution is planning to take in situations where corrective measures are called for; and
  6. review implementation of previously required corrective measures;
- D. In circumstances where significant concerns arise or problems are detected with respect to contributory institutions, where appropriate, their associates under the oversight of the Banking Supervision Department and the Registrar, prompt oral communication will occur between the Banking Supervision

- Department, the Registrar and the DPS and, where necessary, a follow-up session will be arranged on a timely basis;
- E. as part of the meetings to discuss examination results, the DPS and the Banking Supervision Department should have information on the economic, business and legal environments in which contributory institutions operate;
- F. in circumstances where the DPS considers it necessary to carry out an examination in preparation to a payout to protected depositors, the DPS should:-
1. seek the Banking Supervision Department's and the Registrar's approval;
  2. prior to the special preparatory examination being conducted, advise the Registrar and Banking Supervision Department of the planned conduct and nature of the examination of contributory institution where there is an associate; and
  3. provide the Banking Supervision Department with a copy of the report relating to the examination, and at the Banking Supervision Department's request, discuss the findings and conclusions arising from the examination;
- G. In cases where the DPS considers it necessary to conduct an examination of a contributory institution for a specified purpose, the Banking Supervision Department, the Registrar and the DPS will jointly determine the scope of the examination. Upon completion of the examination, the Banking Supervision Department should report its findings and conclusions to the DPS. In circumstances where the DPS engages a consultant to carry out the examination, the DPS should, upon request, provide the Banking Supervision Department with access to the working papers and reports prepared by the consultants.
- H. The DPS, the Registrar and the Banking Supervision Department will disclose to each other planned actions against a contributory institution and, where appropriate, its associates. Such actions include the assessment of premium surcharges, restrictions on licenses, directions

of compliance, exacting of undertakings to address solvency and liquidity issues, and the implementation of action plans regarding the amalgamation or sale of such institutions.

**I. Termination, Cancellation and Winding-Up Process:**

i) To discharge their respective mandates effectively and efficiently:-

A. The DPS should advise the Banking Supervision and Registrar of its intention to terminate or cancel the insurance policy of deposit protection of a contributory institution;

B. the DPS should advise the banking Supervision Department and Registrar of its intention to petition for the winding-up of a contributory institution;

C. the Banking Supervision Department should advise the DPS of its intention to appoint a curator to take control of the assets of a contributory institution or any of its associates;

D. the Banking Supervision Department should advise the DPS of its Intention to initiate the process to petition for the winding-up of a contributory institution or any of its associates;

E. the DPS and the Banking Supervision Department should co-operate and coordinate the process to ensure that winding-up action is taken against a contributory institution in an orderly manner.

(f) In terms of deposit protection, regulatory, and supervisory policy initiatives, for purposes of ensuring policy co-ordination at the government level, the DPS; the Registrar, and the banking Supervision Department should:-

i) advise each other of the planned policy initiatives with respect to contributory institutions and their associate;

ii) share relevant information in the sphere of policy initiatives and deposit

protection, regulatory or supervisory issues; and for those policy initiative that have a bearing on the mandates of the three executing agencies of Government, be provided with the opportunity to comment at appropriate stages of their development and prior to their distribution for formal consultation to contributory institutions and their associations, as well as other interested parties, and prior to their finalisation;

- g) Ministerial, Parliamentary and other Reporting
  - i) In the dealing with a matter affecting institutions covered by the Act generally, affecting a specific contributory institution, or directly relevant to the mandate of the other agency, the DPS, the Registrar and the Banking Supervision Department should where appropriate:-
    - A. inform each other about requests (other than routine requests such as answers to parliamentary questions) to provide information to the Minister or other ministers, parliament, parliament committees, or any other public forum;
    - B. co-ordinate responses to such requests.
  
- h) Human Resource training and development
  - i) The DPS, the Registrar and the Banking Supervision Department should, where appropriate:
    - A. co-ordinate training courses, conferences, seminars and other educational sessions pertaining to deposit protection, regulatory, Supervisory, and risk management subject matters such as risk analysis techniques, market developments, financial institutions products and activities and invite the participation of staff of both the DPS, the Registrar and the banking Supervision Department; and
    - B. Accord each other term positions; secondments, and other personnel interchange opportunities between the DPS, Registrar and the Banking Supervision Departments.