

BANK RESTRUCTURING AND RESOLUTION POLICY FOR THE LIBERIAN BANKING SECTOR

**Bank Supervision Department
Central Bank of Liberia
Monrovia, Liberia**

1.0 Policy Objectives

- 1.1** This policy is established in furtherance of the statutory mandate of the Central Bank of Liberia (CBL) to promote the safety and soundness of the Liberian Banking system, and is targeted at banks that are critically undercapitalized, critically illiquid or in willful or negligent disregard of supervisory authority as defined in and applicable regulation. Comprehensive restructuring of the Liberian Banking System is a policy imperative to revive and sustain the safety and soundness of the system, restore credibility of bankers in themselves and win the acceptance of both the local populace and the international community.
- 1.2** The principal objectives of the policy are as follows:
- a.** To ensure that banks operating in Liberia do have and maintain adequate capital levels and operational requirements that are consistent with the New Financial Institution Act (FIA) and international standards;
 - b.** To ensure that supervision of bank and non-bank financial institutions is carried out in a consistent, transparent and vigorous manner, which, either alone or in conjunction with other policy measures, will revive or restore credibility in the Liberian Financial System;
 - c.** To institutionalize use of prompt corrective measures as a supervisory tool for the protection of depositors and other stakeholders;
 - d.** To ensure the orderly and permanent resolution of non-viable operating banks and non-viable non-operating banks.

2.0 Background

- 2.1** The Liberian Financial System is one in prolonged distress. One major cause of the present banking crisis is the recently ended civil war that disrupted economic activity, destroyed property and led to serious dislocations. Another major cause consists of continuous fiscal deficits and the related problem of the Government of Liberia (GOL)'s position as the largest single delinquent borrower to both operating and non-operating banks. As a further complication, the GOL is the owner of two failed and unresolved non-operating banks. Other aggravating circumstances include weaknesses in the Liberian legal system as regards enforcement of financial contract and/or the collection of debts.

3.0 Challenges of Bank restructuring and resolution in Liberia

- 3.1** Distressed bank restructuring is a procedure by which only banks that demonstrate the prospect of viability are offered regulatory forbearance in exchange for increased risk management controls throughout their rehabilitation. Alternatively, distressed bank resolution is concerned with implementing the orderly, timely liquidation of non-viable banks. Resolution also entails redeployment of marketable assets and liabilities to the private sector through acquisition mechanisms such as purchase and assumption transactions.

- 3.2** Restructuring and resolution procedures are costly, requiring the shared participation and occasionally shared losses by all stakeholders, namely GOL, the Central Bank, shareholders, and depositors. However, depositors of banks are not risk takers as shareholders are. They expect to get their money back, relying not only on good governance practices by banks but also on supervisory authorities protecting depositors' interests. The absence of a deposit insurance system in Liberia heightens the difficulties depositors face. So too does the current level of CBL's capitalization, which impedes its ability to participate in any bailout or provide necessary short-term liquidity support.
- 3.3** In acknowledgement of these challenges, this policy is intended to implement bank restructuring and resolution in a manner that is least costly to depositors while permanently restoring public confidence in the banking system.

4.0 Statement of Policy

- 4.1** The CBL does hereby adopt the following two-prong Bank Restructuring and Resolution Policy:
- a) **RESTRUCTURING POLICY**: All operating banks determined to be critically undercapitalized, critically illiquid or in willful or negligent disregard of supervisory authority shall be subject to concrete and targeted progressive enforcement actions, including direct supervisory intervention, that are reasonable time-bound and monitorable, as discussed herein.
 - b) **RESOLUTION POLICY**: All operating and non-operating banks that are determined after final viability assessments to lack the resources or any other requirements of CBL will be subject to prompt final resolution.

5.0 Restructuring Policy for Operating Banks

- 5.1** Effective upon the adoption of this policy, the CBL, through the Bank Supervision Department (BSD), will promptly apply specialized enforcement actions to any bank found to be critically undercapitalized, critically illiquid or in willful or negligent disregard for supervisory authority
- 5.2** The first step in specialized enforcement shall be for BSD to develop a detailed supervisory strategy for each bank, outlining its viability and, if it is viable, its alternatives for recapitalization or achieving regulatory compliance.
- 5.3** Based on the detailed supervisory strategies to be developed for each operating bank in accordance with Section 5.2 above, CBL will take one of the following actions:
- 5.3.1** Banks determined not to be viable will be subject to seizure followed by compulsory reorganization through provisional Administration and/or liquidation. These steps will be implemented within a maximum period of sixty (60) days of such determination and concluded within twenty-four (24) months thereafter.
 - 5.3.2** Banks determined to be viable will be granted a formal regulatory forbearance by the CBL following the adoption of a written undertaking (execution of a written Memorandum of Understanding (MOU) with the CBL) signed by every member of the Bank's Board of Directors and executed within thirty (30) days of such determination. Provisions of the written Agreement (MOU) will be established at the sole discretion of the CBL and will specify both time-bound corrective measures and risk management controls that are further defined in this paragraph.
 - 5.3.3** If a Bank otherwise eligible for Formal Regulatory Forbearance fails/neglects to agree or execute within seven days a written undertaking or MOU as described in 5.3.2, or having executed such written undertaking fails to implement or

achieve the corrective measures and risk management controls within the time specified, it shall be immediately subject to final resolution through seizure, Provisional Administration and/or liquidation. These steps would be implemented within sixty (60) days of such determination and concluded within twenty-four (24) months thereafter.

5.4 The corrective actions that the CBL determines to be necessary to bring the bank into capital, liquidity and/or other prudential or regulatory compliance will be comprised as follows:

5.4.1 Mandatory elements comprised of Direct Supervisory Intervention as further described in section 5.4.3 of this paragraph; adoption and implementation of a Corrective Action Plan; suspension of branch applications; suspension of dividend payments; suspension of any new or renewed credit, contractual, or investment transaction with insiders; and freezing of all insider depository accounts.

5.4.2 Optional elements that may include but not be limited to: suspension/removal of management officials and board members; limitations on deposit growth and lending; restriction on investment activity; and either restriction of withdrawal rights of off shore banks accounts or transfer of off-shore correspondent account balances to an account held in the bank's name at the CBL.

5.4.3 Direct Supervisory Intervention (DSI) shall consist of an enforcement activity through which the CBL rescinds some or all of the delegated authority it has provided through a banking license to shareholders, directors, and management and simultaneously vests same instead in a CBL representative whose responsibility it will be to provide direct supervision through the bank's Board and Management in order to bring the Bank within regulatory compliance.

5.4.4 Every bank that is granted a formal regulatory forbearance shall simultaneously be extended a maximum period of nine months within which to achieve all of the corrective actions required by the CBL, including recapitalization and/or reorganization.

5.5 Consistent with the New FIA, a bank that is seized pursuant to this policy shall generally be placed under a Provisional Administration. The principal focus of provisional Administration, as contemplated herein, will consist of three actions. The first will be to complete the corrective actions identified by BSD as conditions for a regulatory Forbearance, and agreed to be implemented by the bank in a signed written MOU to restore the safety and soundness of the bank. The second will be to recapitalize the bank through reorganization, solicitation of investors interest, and similar efforts, in which role the Provisional Administrator will function independently, preserving the supervisory oversight role of the CBL. The third focus will follow if the first two efforts fail, and shall consist of preparing the bank for final liquidation. In all of its activities, the Provisional Administration shall prioritize cost containment, collection of problem assets, regulatory compliance, and protection of depositors' interests.

6.0 Resolution Policy for Non-active Banks

The CBL shall commence the restructuring and resolution of non-operating banks within approximately 6 months of the adoption of this policy. Thereafter, the time intervals described in the following sections would apply.

6.1 BSD shall develop for all non-operating banks a final viability assessment, which will be completed within ninety (90) days. The assessment will determine what records may exist of the assets and liabilities of the bank and what evidence of banking operations

and shareholder information may be available. Based upon the assessment, BSD will prepare financial statements and, in consultation with the CBL Legal Department, formulate a detailed resolution strategy for each non-operating bank.

- 6.2** Any non-operating bank with inadequate capital or inadequate financial, managerial, and governance resources will be placed in liquidation in accordance with the liquidation procedures contained in the New FIA. The CBL will file each petition for liquidation within thirty (30) days of completion of the final viability assessment provided for in section 6.1 above.
- 6.3** Institutions with potentially adequate financial, managerial, and governance resources shall be considered for re-licensing as de novo banking institutions. In addition to rigorous due diligence of governance capacity, CBL will require any potentially eligible non-operating bank to discharge all obligations to existing depositors before re-licensing will occur. Shareholders will also be required to deposit in an account at CBL funds for recapitalization. CBL will grant a recapitalization period of up to one hundred eighty (180) days following the completion of the final viability assessment referred to in section 6.1 above.

Adopted by the Committee on Distressed Banks Resolution (CDBR) on this _____ day of January 2005, and sent to the Board of Governors of the Central Bank of Liberia on this day for its approval.

Signed: _____

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