national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

FINANCIAL SECTOR LAWS AMENDMENT BILL [B15-2020]

Response to issues raised during the Public Hearings of the Standing Committee on Finance

26 MAY 2021

LIST OF COMMENTATOR(S)

NAME
Banking Association of South Africa (BASA) Betweenity COSATU

Financial Sector Laws Amendment Bill, 2020			
General Comments			
Commentator	**Clause**	**Comment/s**	**Response**
BASA	**General**	We welcome the opportunity to comment on the financial sector laws amendment bill. The Banking Association South Africa has engaged extensively on the content of the bill with National Treasury, the South African Reserve Bank, and our members. We recognise the urgency of this bill and wish to support the expeditious deliberation of the bill by the Standing Committee on Finance. We will continue engaging our regulator on the specifics of the regulations as they apply to the bill.	Over the past decade South Africa has undertaken policy measures that ensure the domestic financial sector is well regulated and that as a member of the G20, our international obligations are fulfilled. The Financial Sector Regulation Act, 2017 assigns the financial stability mandate to the Reserve Bank. The resolution framework

		We do wish to draw the Standing Committee on Finances attention to a particular matter. The banking industry and broader financial sector, rely on specific financial instruments to manage risk, moving risk from businesses in the economy to the banking industry, and then from the banking industry to e.g., a counterparty in the international financial markets. This is good for South Africa and the financial sector. For these financial instruments to be valid, they must be recognised in law as being insolvency remote. In other words, no matter what happens to the South African bank, the South African bank must be able to honour its commitment to the international counterparty, as agreed in the contract. Global master agreements provide the framework for these financial instruments and are supported by most advanced financial centres and many other jurisdictions, including South Africa, and are underpinned by domestic legal frameworks that recognise the intention of these financial instruments. The matter for consideration by the Standing Committee on Finance, is that when a South African bank is in distress, either in resolution or under curatorship/bankruptcy, the international counterparty must be able to rely on the South African legal framework to ensure that their rights to performance under the financial contract are upheld. The same legal right is afforded South African banks when an international counterparty in another jurisdiction is in distress, either in resolution or under curatorship/bankruptcy. The South African bank is assured that they can receive the commitments made by the bank under the financial instrument, and not be prejudiced by a person assigned by the regulator or courts to either resolve and make whole, or dissolve and close the international counterparty. Very often the assigned	contained in the Financial Sector Laws Amendment Bill is an enhancement of this. The Financial Matters Amendment Act, 2019 and the Financial Sector Laws Amendment Bill, 2020 are amongst the pieces of legislation that have been introduced recently to align South Africa's financial sector with other international jurisdictions. The amendments to the Insolvency Act that were introduced in 2019 by National Treasury via the Financial Matters Laws Amendment Act aligned South Africa's derivatives market with other international jurisdictions by ensuring that when there is a domestic counterparty default due to an insolvency event, collateral that is pledged as margin is readily available and easily realisable as per the international standard. This ensures that during an insolvency event, international or domestic counterparties that contract with domestic banks are able to immediately have access to their collateral not withstanding any insolvency processes

		person such as a resolution practitioner or curator is given the right to choose which contracts should be honoured and which should be set aside. It is this discretion that the financial instrument seeks to address and must be provided for within the legal framework to be recognised. The Banking Association South Africa together with our South African regulators and policymakers have over many years, lobbied for South Africa to be recognised internationally as compliant with these global master agreements. South Africa has achieved a clean international legal opinion which provides comfort to users of these financial instruments to contract with South African banks and other entities as the legal framework meets the international standards. It has however come to our attention, that at least one advisory law firm in London has evaluated the financial sector laws amendment bill and has already indicated that based on the changes introduced, South Africa will not materially meet the requirements of the international agreement any longer, and South Africa will be red flagged. This will result in further attention on South Africa's legal framework with the resulting potential withdrawal of counterparties across the world. The financial sector laws amendment bill repeals section 69 of the Banks Act in its entirety, replacing it with the "orderly resolution of a designated institution" by a "resolution practitioner". The amendments to section 83.10 of the Insolvency Act relating to master agreement pledged assets upon the occurrence of a South African bank bankruptcy, would now apply to the proposed "resolution" as well. With the removal of section 69 of the Banks Act, that cured the right of access for a beneficiary, the situation has been reversed and no protection will be afforded under the new legislation. Section 69 of the Banks Act and section 83.10 together provide the necessary legal certainty.	that would otherwise delay access to their collateral. The Financial Sector Laws Amendment Bill introduces a resolution framework that replaces the current curatorship framework for banks in South Africa. Resolution does not replace insolvency processes even though there are interlinkages between the two frameworks, they are not one and the same process. Therefore, the protections contained in the Insolvency Act via section 83(10), 83(10A) and 83(10B) for ISDA Master Agreement creditors in a derivatives contract are not infringed upon by the Financial Sector Laws Amendment Bill. The Financial Sector Laws Amendment Bill is aligned with other international jurisdictions as it largely references the Financial Stability Board's policy document: *Key Attributes of Effective Resolution Regimes for Financial Institutions* 2014. During the drafting of the Bill, National Treasury and the Reserve Bank were cognizant of the 2015 *BCBS-IOSCO Margin Requirements for*

		We have raised our concern with the South African Reserve Bank but believe that the current financial sector laws amendment bill should be amended to ensure continuity of the protection afforded under the original intention of bankruptcy as well as the new opportunity for resolution. We do not believe that there should be a review of the matter post implementation of this bill as an Act, as this could take many years to correct, impacting on the banking industry's ability to continue with transferring risk using this global master agreement framework. In our example, we have used an international counterparty, given the origins of the legal opinion, but the problem applies equally to domestic banks contracting with other domestic banks within South Africa. The domestic bank, not being able to perfect their claim in both instances of resolution and curatorship/bankruptcy, will impact negatively on their risk management, as the pledged assets may be lost to the depositors of that bank. The importance of this matter is best illustrated by reflecting on the size of the domestic market which is estimated by PwC1 at approximately R17 trillion. Should the financial sector laws amendment bill not be amended, the beneficiary under the financial instrument will have to approach the court in respect of every contract of pledged collateral. This would potentially make it unworkable for international counterparties and reduce their ability to contract with South African banks, impacting on our ability to mitigate risk internationally. A similar challenge exists for domestic transactions. An urgent amendment is therefore requested, that reinstate the existing protection and includes the event of resolution. We have also taken the liberty of suggesting some minor edits to the document in the following section. We thank you for the opportunity to provide our input into the deliberations of the Standing Committee on Finance on the financial sector laws amendment bill and remain available to the Standing Committee on	*non-centrally cleared derivatives standard*. The Bill therefore excludes derivatives transactions from bail-in as clause 166S(9)(b) precludes the Reserve Bank from reducing or cancelling derivatives transactions. In 2015 ISDA published the Universal Resolution Stay Protocol which provides that international member associations will recognize in their contractual arrangements, each other's resolution authorities and any stay or override provisions in law. There is recognition within ISDA of resolution regimes in member jurisdictions. Resolution is not an insolvency event and a bank that is subject to an open resolution will continue operating and performing on its contractual obligations. The resolution framework will allow the Reserve Bank to follow an open bank resolution process during which the bank will continue to operate and perform on its obligations. The Bill does contain provisions for a moratorium, however such a moratorium

		Finance for any further clarity. Assuring you of our best attention at all times.	must be temporary and the period will be stipulated in a standard, which will be in line with international standards As mentioned above, the Reserve Bank would still be precluded from either cancelling a derivatives transaction or reducing a counterparty claim. One of the key reasons for honouring derivative obligations is to prevent the transmission of financial distress from one institution to another, and one jurisdiction to another. This must be balanced with providing policymakers maximum flexibility within the framework to effect a resolution and protect the financial sector and the economy. With this in mind, the current formulation of the provisions in the Bill meets these objectives. The Bill is also supported by the Financial Stability Board's Resolution Peer Review of South Africa in 2020 which did not find the Bill to be deficient on its approach to derivatives transactions

		Definitions	
BASA	**Definitions**	Insurance Act definition: FSRA defined without full reference Recommend that the FSRA be defined with full reference to FSRA, No 9 of 2017	The definition referred to is not directly related to what is contained in the current content of this legislation, and therefore is outside of the scope of the current legislation. The referencing referred to was due to an Act No. not being assigned yet at the time that Parliament enacted the Financial Sector Regulation Act, 2017 The comment will appropriately be addressed in forthcoming amendment legislation, in relation to all of the financial sector laws, which contain similar definitions for the Financial Sector Regulation Act.
BASA	**Definitions**	Financial Markets Act definition: FSRA defined without full reference **Recommend:** that the FSRA be defined with full reference to FSRA, No 9 of 2017	The definition referred to is not directly related to what is contained in the current content of this legislation, and therefore is outside of the scope of the current legislation.

			The referencing referred to was due to an Act No. not being assigned yet at the time that Parliament enacted the Financial Sector Regulation Act, 2017 The comment will appropriately be addressed in forthcoming amendment legislation, in relation to all of the financial sector laws, which contain similar definitions for the Financial Sector Regulation Act.
Clause 1			
BASA	**Clause 1**	FSRA used twice in this section, but not consistently referenced **Recommend**: that the FSRA be defined under Definitions in the Insolvency Act with its full reference, being FSRA No 9 of 2017	The use of the full referencing used throughout is not incorrect, and the amendments referred to were agreed with the Department of Justice and Constitutional Development. It was not proposed to insert a definition into the Insolvency Act, when the legislation was only going to be referred to in only one section of the Act. It also is notable, that in the Insolvency Act, which was enacted in 1936, when drafting conventions were different in certain respects than they are now, that

			currently there are no pieces of legislation defined in the definitions section in terms of the Act, and the referencing of legislation is consistently referred to in full, subject to a second reference in a paragraph would refer to the Act and the year of the Act, as has been provided for in this section.
Clause 3			
BASA	**Clause 3**	FSRA and FMA used various times in the section, but not consistently referenced **Recommend:** that the FSRA and FMA be defined under the Definitions sections in the Insolvency Act with their respective full reference numbers	This is consistent with the approach to referencing commonly adopted in drafting legislation, where a full reference is initially provided, and a subsequent reference in the same subsection or paragraph does not need to be a full reference.
Clause 6			
BASA	**Clause 6**	No proposal in FSLAB, however, s51(1)(c) is proposed to be deleted, but not s51(1)(d). Banks Act- s51(1)(d) **Recommend:** section s51(1)(d) to be deleted in addition as there is a reference to a “curator”.	Agreed.
Clause 8			
BASA	**Clause 8**	**Banks Acts60(1B) (b)(ii) (bb)**	Agreed, see proposed amendment to clause 8.

		Reference to a financial sector regulator- not a defined term in the Banks Act **Recommend:** defining financial sector regulator in the subsection with reference to the FSRA. **Recommend**: updating the definition of FSRA with reference to its no. Thus, Financial Sector Regulation Act No 9 of 2017	On page 5, in line 18, after "financial sector regulator" to insert: "as defined in section 1(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017)".
Clauses 19			
Betweenity	**Clause 19**	The author fully appreciates the importance of swift action to protect financial stability where a bank, or a systemically important non-bank financial institution, is failing or likely to fail. It is also understood that one of the ways in which financial stability could be ensured is via the implementation of a merger in accordance with the new section 166S of the Financial Sector Regulation Act, 2017. However, it is respectfully proposed that the way in which the amendment is articulated has the effect of permanently removing the oversight function of the Competition Commission SA (**Commission**) in relation to such a merger. This leaves the possibility that a merged entity that has recovered may dominate and act abusively in relation to customers in certain market segments without swift regulatory recourse. It must be kept in mind that, worldwide, financial markets are facing large-scale disruption. Some institutions may acquire a significant market power where strong brands, albeit in technical distress, are added to their banking portfolio.	The National Treasury and Reserve Bank held consultations with the Department of Trade, Industry and Competition as well as the Competition Commission on the clauses pertaining to mergers and amalgamations in the Bill. The agreement was to include the Competition Commission in the consultation phase of a proposed merger or amalgamation of a Designated Institution in resolution. Therefore, the Reserve Bank will be in communication with the Competition Commission if it effects a merger or amalgamation during a resolution. The provisions in the Bill are also aligned to the current provisions of the

		Various African competition authorities have identified financial markets as priority industries. These markets are being investigated for anti-competitive conduct. Certain features of financial markets are highly problematic in Africa, including the high price of money transfers across borders, vague and cumbersome pricing of products, and high banking costs. Mergers involving banks are often approved subject to conditions that prevent the merging banks from full integration in relation to certain areas, due to concerns about critical mass and its effects. Examples also exist of banks that have used the disruption of the pandemic to exploit customers. It is highly likely that the same exploitation may occur pursuant to a disruption impacting the banking sector itself (as contemplated in the Bill). The author respectfully proposes that the following provisions be included in section 19 of the Bill: Within six months after a merger has been implemented in accordance with section 166S of the Financial Sector Regulation Act, 2017, the Competition Commission shall commence with an investigation into the merger in accordance with section 12A of the Competition Act in the normal course. Conditions to address any anti-competitive concerns with the merger with be imposed in consultation with the Governor of the Reserve Bank. It is respectfully submitted that the above proposed provisions are essential in order to protect markets and consumers during the current period of large-scale financial market disruption, as well as ample efforts across Africa to deconcentrate financial markets for purposes of financial inclusion.	Competition Act, Banks Act and Financial Sector Regulation Act. The resolution framework that is envisaged in the Bill is intended to ensure that systemically important financial institutions (SIFI) do not cause a systemic failure when they are in distress. The framework is also aligned to the financial stability mandate of the Reserve Bank as contemplated in the Financial Sector Regulation Act. It is imperative that the Resolution Authority has wide ranging tools and enough flexibility to resuscitate a failing SIFI and ensure its orderly resolution. The powers assigned to the Resolution Authority are applicable from the moment a designated institution is placed in resolution to the moment it exists resolution. Once the designated institution exits resolution, the Competition Commission is not precluded by any provision contained in the Bill to act in terms of the Competition Act should that designated

		To summarise the submission, it is respectfully proposed that, due to the risk of market consolidation and consumer harm pursuant to a takeover in accordance with section 166S of the Financial Sector Regulation Act, 2017, the Competition Commission be granted with the mandate to conduct a merger investigation, in terms of section 12A of the Competition Act, within six months after the takeover, in the normal course.	institution act abusively towards a customer or the financial sector. However, any action after the resolution that is contrary to the financial stability mandate of the Reserve Bank or that would undo any resolution action that is already taken by the Reserve Bank would be unlawful e.g. 166S (1) renders action taken by the Reserve Bank to be lawful and legally binding even if ordinarily it would not have been permissible in law. The purpose of 166(S)(1) is to ensure that the Resolution Authority is unencumbered in the execution of its resolution powers. This clause would enable the Authority to act speedily and with enough flexibility to ensure that the financial system is stabilized as quickly as possible, especially if a systemic event has occurred.
Clauses 27-31			
BASA	**Clauses 27 - 31**	The FSRA is referenced in all the amended sections. Best to define FSRA under Definitions in the Companies Act Recommend inserting a definition of the FSRA No 9 of 2017 under definitions in the Companies Act	The amendments proposed were engaged upon with the Department of Trade, Industry and Competition, and approval was obtained from the Department, and

			Cabinet for the amendments to be proposed by the Minister of Finance in this Bill. The amendments were specifically drafted to minimize the extent of amendments to the Companies Act. It has not been possible to consult with the Department of Trade and Industry regarding this proposal. It is also noted that Committees in Parliament in terms of the Rules of Parliament are limited in the extent of amendments that they may consider and propose in amendments to Bills that are referred to Committees for consideration. The drafting of the current provisions is not incorrect or problematic from a legal perspective, and substantive issues have not been raised in respect of these clauses. To avoid any potential need for the Committee to seek approval for an additional amendment being proposed, and to adhere to the approach agreed with the Department of Trade, Industry and Competition and the Competition

			Commission, which was approved by Cabinet, it is proposed that the current clauses in the Bill be approved by the Committee in their current form.
Clause 32			
BASA	**Clause 32**	There is a reference to a "designated institution" without the cross-reference to the FSRA **Recommend**: adding after "designated institution" … "as defined in the FSRA"	Agreed, see proposed amendment to clause 32. "On page 9, in line 35, after "designated institution" to insert: " as defined in section 1(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017)"."
	Clause 33		
BASA	**Clause 33**	The new Subsection 60(5) appears to be unnecessary considering the existing 60(1) and the new section 166D of the FSRA which provides that a cancellation of a license can only happen in concurrence with the Reserve Bank **Recommend** deleting the new proposed S60(5)	Section 60(5) is absolutely necessary as it speaks to an instance when a Designated Institution is in resolution and any action that is taken regarding its license must be reported to the Resolution Authority before it is taken. However, section 60(1) and 166D speak to such action being taken and needing

			the concurrence of the Reserve Bank when a Designated Institution is not in resolution. Note, in line with comments on clauses 32 and 34, please see associated proposed amendment to clause 33: On page 9, in line 40, after “designated institution in resolution” to insert: “as defined in section 1(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017)”.
Clause 34			
BASA	**Clause 34**	There is a reference to a “designated institution in resolution” without cross-reference to the defined term in the FSRA **Recommend:** adding after “designated institution in resolution” … “as defined in the FSRA”	Agreed, see amendment to clause 34. On page 9, in line 47, after “designated institution in resolution” to insert: “as defined in section 1(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017)”.

Clause 35			
BASA	**Clause 35**	"Agreement" is defined as any agreement whether in writing or not **Recommend:** that Agreement be defined as a written agreement to ensure certainty of terms. How will terms be proven if not in writing?	Agreements are not necessarily required to be in writing, with the exception of certain specified types of agreements. It is sought not to inadvertently exclude some type of agreement, for example in respect of the conclusion of an electronic transaction, where there might not be certainty whether there was an agreement that was in "writing".
Clause 51			
BASA	**Clause 51**	**FSRA- s166D(1)(i) and (j)** In both these subsections reference is made to terms such as "amalgamation or merger" and "compromise arrangement". Should these be defined as per the Companies Act? **Recommend:** that if the intention is to refer to transactions as contemplated in the Companies Act, then both these subsections must refer to the Companies Act.	Agree, see proposed amendments to s. 166D(1)*(i)*and *(j).* On page 18, in the proposed section 166D, in line 40, after "amalgamation or merger", to insert: "as defined in section 1 of the Companies Act". On page 18, in the proposed section 166D, in line 42, after "compromise arrangement", to insert:

			"referred to in section 155 of the Companies Act".
BASA	**Clause 51**	**FSRA-s166S(2)(b)** Not clear what "arrangement" is intended to include. Chapter 5 of the Companies Act deals inter alia with a Scheme of Arrangement- refer to s114 **Recommend:** that the reference to "arrangement" is deleted or that the section refers to a "scheme of arrangement". Should the latter be considered, then the legislator should consider a materiality threshold as applicable to other subsections in section 54 (25% or 10%) as schemes of arrangements by a designated institution could involve a small portion of one of its classes of shares which may not be of material value.	The reference to "arrangement" under clause 51, section 166S(2) (b) includes any of the transactions contemplated under Chapter 5 of the Companies Act. Reference to "arrangement" is amended to refer to "scheme of arrangement" in s. 166S(2)*(b)*. See proposed amendments to section 166S: On page 24, in the proposed section 166S, in line 13, to omit "amalgamation, merger or arrangement" and to substitute "amalgamation or merger, or a scheme of arrangement". On page 24, in the proposed section 166S, in line 29, after "amalgamation" to insert: "or merger".

			On page 24, in the proposed section 166S, in line 36, after "amalgamated" to insert: "or merged". On page 24, in the proposed section 166S, in line 38, after "amalgamating" to insert: "or merging". On page 24, in the proposed section 166S, in line 41, after "amalgamated" to insert: "or merged". On page 24, in the proposed section 166S, in line 45, after "amalgamation" to insert: "or merger".
BASA	**Clause 51**	FSRA-s166S (4)(c) The term "amalgamation" is used. The correct term as defined in the Companies Act is "amalgamation or merger" **Recommend**: using the correct term as defined in the Companies Act- add "or merger" after "amalgamation"	Agreed, the proposed amendment to s. 166S(4)(c) refers to "amalgamation or merger", and includes other appropriate references. See list of amendments above.

COSATU	**Clause 51**	**166W Creditor Hierarchy** COSATU welcomes the Financial Sector Laws Amendment Bill tabled at Parliament by Treasury. It is a necessary and long overdue intervention by government. It will help protect workers, pensioners, the state and economy at large. Whilst welcoming and supporting the Bill in principle, COSATU is worried about the ranking provided for creditors in Clause 166 (W) of the Bill. The Federation believes that it needs to be amended to ensure that the most vulnerable depositors, namely pensioners, the unemployed and workers need to be prioritised when banks are wound up and their assets are disposed of. South African law to date has failed to ensure that these vulnerable categories of creditors are prioritised in such instances. COSATU is worried about the proposed ranking or prioritisation of creditors. The Bill appears to propose that secured lenders be ranked first and that unsecured creditors e.g. ordinary depositors be ranked fourth. In essence this means that in the event of the collapse of a bank, secured lenders e.g. other banks or companies who have lent monies to the bank will be paid first. Unsecured creditors e.g. ordinary workers, pensioners, SMMEs etc. will be ranked fourth. These unsecured creditors cannot afford delays in accessing their meagre savings. They do not have other sources of income. Often these are workers and pensioners' life savings. Too often this approach to liquidation and the disposal of assets has left workers and pensioners with nothing. It is wrong, immoral and in contravention of the Constitution's requirements for legislation to be equitable, fair and rationale. It cannot be argued that this approach meets these Constitutional requirements.	The support for the Bill is welcomed by government and National Treasury shares the concerns raised by COSATU on the need to protect vulnerable depositors and worker's savings by introducing a deposit insurance framework that will ensure that when a bank fails, depositors will have access to their deposits. The Bill also ensures that in the event of the failure of a bank, a government bail-out using tax payer funds will no longer be the solution and instead, a bail-in strategy will be used whereby creditors and shareholders will bear the losses. The general ranking of creditors in an insolvency is set out in the Insolvency Act. At a high-level, the Insolvency Act ranks creditors as secured, preferred and then unsecured. This is the existing creditor ranking and the Bill has not changed this. The Financial Sector Laws Amendment Bill, proposes changes to the existing hierarchy for designated institutions which includes banks, to provide for

		The ranking of creditors must be amended to ensure that unsecured creditors namely pensioners, the unemployed and workers are ranked first in the creditors' ranking. This requires a simple re-ranking of the Bill's provision to clearly stipulate that unsecured creditors and in particular to state explicitly that pensioners, the unemployed and workers will secure first preference during the liquidation and disposal of banks' assets. It is not acceptable or moral for pensioners and workers to be left waiting for months and often years to access what is left of their meagre savings. Workers and pensioners should not have to wait to receive what is left after secured creditors have had their fill.	resolution and deposit insurance. It also recognises depositors explicitly. The proposed changes to the creditor hierarchy set out in the Financial Sector Laws Amendment Bill is historical in nature as it is the first of its kind in South Africa to recognise qualifying depositors as a distinct category of creditors and more importantly it has moved depositors from the present concurrent ranking to third just below secured and preferred creditors. In line with the statements made by COSATU, the purpose of the proposed deposit insurance is to protect vulnerable depositors. In this respect, it is important to note the two processes, the process of winding up the estate where creditors receive their claims according to their ranking and the process of paying out depositors from the Deposit Insurance Fund (DIF). When a bank is placed into resolution by the Minister of Finance and (1) a payout strategy is followed which aims to ensure that depositor funds are safe and available, the Corporation for Deposit

			Insurance (CoDI) will use the Deposit Insurance Fund (DIF) to pay out the bank's covered depositors (up to R100 000*) holding simple accounts (accounts in the name of the depositor) within (initially) 20 working days provided that the depositor has been identified. Because CoDI pays out the covered depositors of the failed bank, it takes the place of the covered depositors in the creditor hierarchy. CoDI will then wait to recover from the estate of the failed bank to replenish the DIF. This addresses the legitimate concern from COSATU that depositors who are workers and pensioners no longer have to wait for a payout, or have limited access to their funds when a bank is placed in resolution by the Minister. The covered depositors of a failed bank <u>will also not need to wait for the liquidation proceeds to get access to their funds held at the failed bank</u> which can take years, access will now be within a reasonable 20 days.

			CoDI will use the monthly deposit insurance submissions by banks to improve the quality of depositor data over time to shorten the payout period for these accounts to the international standard of 7 working days. Complex accounts where the depositors have not been identified or where there are concerns with the account or account holder may take longer to be processed by CoDI for payout. When (2) a payout strategy is not followed and an open-bank resolution is implemented, where the bank operates as per normal whilst it is being resolved, the depositors of the bank are not impacted as the bank remains open and depositors have immediate and normal access to their funds.
