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Introduction

The banking sector has suffered since late 2019 without serious measures taken from previous governments to start solving the banking crisis. Several plans were prepared by previous governments that were directed towards deposits' return more than bank restructuring, noting that deposits' return plans were also not fair with depositors. The current Government started the first step in a long journey of financial and administrative reforms. In addition to the administrative reforms that are in process in many ministries, the Bank Secrecy and Banks Restructuring laws were issued by the Lebanese Parliament recently. In this spotlight, we will address the remarks by Central Bank (CB) Governor Mr. Karim Souaid in his legal study presented to the Finance and Budget Committee in Lebanese Parliament related to the draft law prepared by the Council of Ministers. In addition, we will be tackling the main points presented in the issued law and, lastly, the main comments of IMF on this law.

CB Governor Remarks on Council of Minister's Draft Law¹

It is to be noted that the Council of Ministers prepared on April 12th, 2025 and sent to the Lebanese Parliament a draft law related to "reforming the situation of banks in Lebanon and their restructuring," known as the Bank Resolution Law. However, the CB argued in a study that the Government's draft law undermines constitutional principles, especially separation of powers, conflicts with existing banking laws, especially the Monetary and Credit Law, and should be revised or rejected unless aligned with the Constitution and legal structures. For the separation of power, the study states that the separation of power is at risk. Lebanon's Constitution divides

¹ The author would like to thank Maître Sandra Boustany for the valuable assistance in this section

powers between the judiciary, the executive, and the legislature. The proposed law gives a new administrative body (under political control) the power to liquidate banks—without court involvement. This goes against the principle of judicial oversight, where only the judiciary has the final word on closing financial institutions and protecting rights. As for the violation of the 1963 Monetary and Credit Law, the Money and Credit Law gives CB and its Governor clear legal powers and protects its institutional independence. The law replaces or limits these powers by transferring key responsibilities (like bank resolution) to a new committee with political ties. This breaks the legal hierarchy—where specialized laws (like the 1963 law) should not be overturned without parliamentary debate and constitutional procedures. The third issue with Government's draft law is the lack of legal and institutional coherence. Lebanon's banking system is based on a unified legal framework. The draft law introduces parallel structures, which causes legal contradictions. Creating new institutions that clash with existing ones violates the principle of legal certainty—which the Constitution protects to ensure stability and fairness. Lastly, it imposes risk to individual rights and legal guarantees. Liquidating a bank affects depositors, creditors, shareholders, and employees and the proposed law allows decisions to be made without proper legal defense, due process, or judicial appeal. This breaches constitutional guarantees such the right to a fair trial, protection of property, and legal remedies against administrative actions.

It is to be noted that the law's articles were addressed in a non-chronological order for the proper flow of ideas.

Bank Restructuring Law Brief

Articles 5 & 9

The Lebanese Parliament in its meeting on July 31st, 2025, voted and passed the law of reform and re-organization of banks after being amended by the Finance and Budget Committee as per CB's remarks. According to the law, the Higher Banking Commission (HBC) will be established at the CB and financed by it, which comprises of the following two rooms:

- I. First room is formed from:
 - CB Governor - President
 - First Vice Governor of CB - Member

- General Director of Ministry of Finance - Member
- Judge with more than 10 years of experience in financial and commercial matters - Member. The judge is appointed by the Council of Ministers based on a suggestion from Minister of Finance from a list presented by the Supreme Judicial Council.
- Banking Control Commission (BCCL) President – Member.
- National Deposit Insurance Corporation Chairman - Member.

BCCL has to update the Governor of CB on banks' situation in general and each one alone as well as any additional information that the Higher Banking Commission (HBC) requests related to issues it is dealing with.

The first room meets upon the invitation of its president or a request from two of its members and the meeting becomes legal upon the presence of at least four members. The decision is taken by at least three votes, and if even, president's vote will be the decisive vote.

II. Second room is formed from:

- CB Governor – President
- First Vice Governor of CB – Member
- Financial and Economic Expert with experience of 10 years or more in Mergers & Acquisitions and banks' restructuring - Member. This member is appointed by Council of Ministers as per Finance Minister's recommendation from a list of names prepared by economic organizations .
- Judge with more than 10 years of experience in financial and commercial matters - Member. The judge is appointed by the Minister of Finance from a list presented by the Supreme Judicial Council.
- Representative of National Deposit Insurance Corporation - Member. The representative should be from the Board of Directors of the Corporation that is not representing the commercial banks.
- General Director of Ministry of Finance - Member

This room is responsible for making decisions related to banks that should be restructured or liquidated as per applicable laws.

BCCL President participates in the meeting without voting rights and not included in the calculation of the quorum. He presents the situation of the

bank understudy and BCCL's recommendation is supported by a financial report and by independent analysis prepared by an independent party appointed by BCCL.

Each member of the second room has to submit to the general secretariat of the authority a declaration, about any current or a previous relation in the last two years with a bank that is subject to the scope of the Lebanese Banking Reform and Reorganization Law. In case any member had any kind of previous relation with a bank in the last two years, he will not be able to participate in the discussions and in decision making and decision will be taken by the majority of remaining members.

The second room meets upon the invitation of its President or the request of three members, and the meeting becomes legal when at least four members are present. The decisions are taken by the majority of the present members and its meetings are confidential. In case the votes are even, the room's President's vote is the decisive one .

BCCL should update the CB Governor on a regular basis the banks' situation and submit its reports to one of the two rooms based on the measures to be taken, either imposing sanctions or restructuring .

Article 6

The members of the HBC should declare to the General Secretariat of the Commission their independence and that there is no conflict of interest within a one-month deadline. If any member has any direct or indirect relation that affects his independence, he will not be able to discuss or vote on any decision related to the bank. Thus, the decision will be taken by the majority of the remaining members.

The below criteria reveal the independence of the member and the absence of the conflict of interest:

- Not a shareholder in a bank or a related institution within the last two years prior to his nomination
- Not a member of Board of Directors or higher management or an advisor to a bank or related institutions within the last two years prior to his nomination
- Not a debtor from a bank or related institution

- Not a depositor with a balance exceeding \$100,000 at the bank or related institution
- Not a relative to a shareholder, member of Board of Directors or higher management up to a fourth degree

Article 7

The second room of the HBC takes the decision to either reform the bank or liquidate it. In case of reform needed, the HBC issue a decision that includes the reform tools that should be applied, measures each bank should apply throughout the whole reform process, and the time needed to complete these measures. Otherwise, the bank should be liquidated and removed from the list of bank at the CB, and then a liquidation committee will be appointed. The decision whether to reform the bank or liquidate it depends on a valuation report done by an independent evaluator that the BCCL sends to HBC. The report should clarify the reasons of the decision to be taken. The main point to be addressed in the assessment report is the net asset value of the bank and loss amount. Before taking the decision whether to reform the bank or liquidate it, the HBC appoints two independent evaluators to continue the assessment process.

Article 16

The HBC – Second Room has the authority over the banks and can use it partially or fully without the permission of the shareholders of the bank under reform, its creditors, Board of Directors, higher management or any party. Its authority includes:

- Appointment of an interim manager in cases that suits article 8 of the law.
- Discharge or replace members of the Board of Directors, and / or higher management or ask the bank to do so.
- Appointment of one or more independent, non-executive members of Board of Directors or ask the bank to do so.
- Reject appointment of new members of Board of Directors, and / or higher management
- Approve the prepared or updated reform plan for each bank.

- Impose necessary measures to remove bottlenecks related to banks reform, such as:
 - Request the bank to sell its assets including assets abroad
 - Request the bank to stop some operations
 - Request the bank to change the legal or operational structure including the ownership structure
- Initiate the reform process and decide the time period needed.
- Impose the implementation of bank reform tools.
- Amend the maturity of the debt instruments and other bank's liabilities (including deposits) or amendment of interest rates and / or other liabilities.
- Hold the trade in listed capital instruments that are issued by the bank and / or postponement of market disclosure requirements after the coordination with the relevant authority.
- Request third parties to continue providing the essential services for the bank under reform as per the agreement before the reform process.
- Impose a suspension of early termination rights by prohibiting the implementation of contractual clauses related to financial lease, service, or license agreements that let the counterparty of the bank in reform to offset, accelerate payment of obligations, or terminate these contracts following the commencement of the bank's recovery process. The suspension of the early termination rights related to financial contracts should not exceed three days.
- The counterparty's early termination rights against the bank being remedied are reserved in the event of any default not related to the initiation of the bank's remediation process before or after the suspension period.
- Prohibiting the payment of any dividends to holders of capital instruments or the distribution of other capital gains to them, and any type of payments to members of the Board of Directors and

- senior managers, other than the basic allocations paid to higher management.
- Enforcing the recovery of funds paid to members of the Board of Directors or senior management in violation of the law, CB circulars, or good governance rules for prior 10 years.
 - The concerned bank shall be removed from the CB's list of banks in accordance with the cases specified in this law, and then a liquidator or liquidation committee shall be appointed in accordance with Article 24 of this law.
 - Filing a lawsuit in the name and on behalf of the bank, or requesting the bank or the interim manager to file a lawsuit before the specialized Lebanese courts and / or any competent foreign court in other countries, against major shareholders, members of the board of directors and senior management, authorized signatories, and auditors, who held their positions at the bank in question in the ten years preceding the date of the resolution; to rectify the situation, if there are reasonable grounds to suspect the involvement of any of these persons in a civil or criminal offense.
 - Giving instructions to the liquidator / liquidation committee in the event of liquidation (as specified in Article 25 of this law).
- The HBC may, after obtaining a report from the BCCL, decide, for legitimate reasons related to the discovery of factual errors at the date of the evaluation conducted by the independent evaluator, to re-evaluate the bank, in part or in full, by the same independent evaluator or another independent evaluator, within a reasonable and expedited timeframe. The results of the second evaluation shall be final and binding.
- The HBC may not adopt the general principle of equal treatment of creditors of the same rank, specifying the cases in which this principle is not applied and providing a transparent explanation of the reasons for doing so. This is only to be done if it deems it necessary to contain the potential impact of a bank's failure on the banking sector as a whole or to ensure the maximum benefit for creditors as a whole.

- The HBC may reverse, partially or fully, any write-down and/or other remedial measures, if necessary. In this case, the HBC may decide to increase the value of creditors' and/or shareholders' liabilities that should not be subject to the write-down and/or other remedial measures. The reversal shall be carried out in accordance with the table of loss absorption ranks detailed thereafter.

Article 8

The bank that is subject to reform will be informed of the decision by the HBC including the tools that will be applied and the decision will be registered in the commercial register. Then, the HBC will publish, in the official gazette, in a well-spread magazine, in addition to the electronic website of the CB, a summary of its decision without including reform tools and assessment report. As for banks that will be subject to liquidation, the HBC will notify the related bank the deletion of bank from banks list at the CB in addition to the decision of appointing a liquidator or a liquidation committee. These two decisions will be registered in the commercial register and both decisions will be published in the official gazette, in a well-spread magazine in addition to the electronic website of the CB.

On an annual basis, the HBC will publish a report mentioning the updates of the progress made and send a copy to the Lebanese Parliament.

Article 10

The BCCL will appoint independent evaluators to assess banks as per valuation and financial reporting following international standards while taking into consideration the precautionary measures taken by the CB. The appointed evaluators are financed by the CB and should have the following qualifications:

- Should have the necessary qualifications such as integrity, efficiency and professional experience.
- Should be independent without any professional or personal relation with the bank or related institutions in order to prevent conflict of interest.

These independent evaluators and their partners, in addition to any other external party, should comply with the bank secrecy law during and after finishing their job; otherwise, they will be subject to the applicable laws.

They submit their reports to the BCCL with a copy to the concerned bank within a specified deadline. As such, the CB and as per BCCL recommendation, announces the detailed qualifications of the needed evaluator along with the tools and detailed of the needed assessment.

Article 11

The bank has the right to submit a written objection to the HBC within a period of 30 days after the release of the assessment report with detailed reasons; otherwise, it implies that the bank approves the report.

For legitimate reasons, the HBC has the right to ask for a new partial or complete assessment report within a period of one month, and based on the results, it could assign new evaluators or not.

Article 12

In order to decide whether a bank should be reformed or liquidated, the BCCL evaluate the situation of the bank if it can be reformed or defaulted or if there is a probability of default in the future. The bank's inability to meet the below criteria that are listed in the law implies that the bank will default:

- Meet the minimum requirements the equity accounts within the required time
- Secure the minimum liquidity needed within the required time
- Pay their liabilities upon its maturity
- Make profits in a sustainable manner
- Meet the conditions required upon receiving the license including not abiding by the laws and conditions applied

Article 13

There are several reform tools that could be applied to banks that have the minimum requirements to continue such as:

- Bail-in
- Re-capitalization of banks from existing shareholders, mother bank, or new investors
- Transfer part or all bank assets and liabilities to another institution
- Merger with another bank

Article 14

The following principles apply in implementing the bank's reform process:

- The hierarchy of the capital accounts and creditors should be taken into consideration as per the below table:

| Item | | Loss Absorption Rank |
|---|---|----------------------|
| Capital Accounts | | |
| Common stock (including premiums) and other capital instruments included in common stockholders' equity | | 1 |
| Cash advances included in common stockholders' equity | | 1 |
| Cash advances included in additional primary capital accounts | | 2 |
| Preferred shares (including premiums) and other capital instruments included in the additional primary capital accounts | | 2 |
| Preferred shares (including premiums) and other capital instruments included in tier 2 capital | | 3 |
| Subordinated debts included in tier 2 capital | | 3 |
| Liabilities | | |
| Subordinated debts not included in capital accounts | | 4 |
| Deposits of major shareholders, board members, general managers, assistant/deputy general managers, their spouses, and children | | 5 |
| Unsecured liabilities (excluding new money) | Bonds issued by the bank and owned by individuals and institutions from the financial and non-financial sectors, whether or not linked to the bank. | 6 |
| | Liabilities of related and unrelated financial sector institutions | 6 |
| | In-Balance Sheet financial sector institutions' deposits arising from credit contracts between these institutions, in their role as financial intermediaries, and their clients | 6 |
| | Other unsecured liabilities (excluding customer deposits) | 6 |
| Unsecured/unprotected customer deposits* excluding customer deposits in Lebanese pounds and new money** | | 7 |
| Secured/protected customer deposits | | 8 |
| Excluded Liabilities | | |
| Tax Payables | | - |
| New Money** | | Not Applicable |
| Client's Deposits in LBP | | Not Applicable |

*To be resolved through the financial resolution and deposits recovery law

**Foreign currency deposits in cash or through incoming transfers from abroad after October 19th, 2019

- Capital accounts absorb the losses first on pro-rata basis within each liability category as shown in the table above.
- Bank's creditors absorb losses as per the hierarchy presented and creditors within same category are equal.
- Bank's shareholders within each category are dealt with evenly.
- Bank's depositors will be protected as per the financial resolution and deposit recovery law that is in the preparation process. Creditors will not be

in the same category due to the different reform tools applied. In case creditors / shareholders found that their situation after applying reform tools will be worse than the potential situation if the bank was liquidated, they can submit a revision to the HBC within a period of three months from the publication of Bank Resolution law. In this case, the HBC decides amount of the indemnity that the bank should pay.

- The reform tools will be used until the bank complies with the minimum capital accounts needed.
- Some liabilities are exempted from decreasing or transferring to capital tools as presented in the table above (Exempted Liabilities).
- Canceling bank's liabilities related to potential liabilities including those related to Letter of Guarantees, Letter of Credit off-balance sheet without risks and additional expenses and releasing the cash collateral provided.
- Termination of financial derivatives contracts and the related liabilities will be considered as non-secured liabilities.
- All temporary accounts are settled or cleared.
- Settlement occurs between on-Balance sheet loans with the cash collateral and / or cash margins and / or the fair value of financial tools (stocks, bills, etc.) that are given as collateral against these loans. As for the amounts that exceed the utilized loans, it will be included in the bank reform process.

These measures will be applied after the issuance of the financial resolution and deposit recovery Law.

Article 15

In order to exit the reform situation, the bank should submit a written request to the HBC clarifying the logical reasons. Then, the BCCL assess the bank's situation, its ability to continue, observance of the laws and conditions mentioned in the reform decision within the deadline. In case of the approval of the HBC, the decision will be sent to the concerned bank and will be registered in the commercial register and published in the official gazette, a well-spread newspaper and CB's website.

Article 17

The main authorities of BCCL as per this law are:

- Preparing an interim assessment of the bank and/or appointing an independent evaluator to assess the bank
- Send a report to the HBC on the evaluation results.
- Submit a recommendation to the HBC regarding whether the bank should be liquidated or reformed, and propose the necessary measures, including the necessary bank reform tools to be adopted.
- Monitor implementation of the bank's reform process status and submit periodic reports to the HBC regarding the compliance with reform decisions.
- Conduct an assessment of the eligibility and suitability of new shareholders and appointed members of the board of directors and/or senior management of the reformed bank.
- Review the reports of the interim manager
- Prepare a recovery plan for each bank and sending it to the HBC.
- Access to all information necessary to implement the banking reform process and exercise its powers and responsibilities under this law.
- Submit a report on the above to the HBC.

Article 18

The Capital Markets Authority, the Insurance Supervision Commission, the CB, the BCCL, the Commercial Registry, the Land Registry, Midclear, the National Deposit Insurance Corporation, and any other parties concerned with implementing the provisions of this law must cooperate with the HBC. Coordination with the Ministry of Finance is required in all matters the authority deems necessary.

Each of the above parties shall provide the HBC with the necessary data, recommendations, and approvals.

Article 19

The HBC shall, if it deems appropriate, appoint an independent interim director for a pre-determined period of time. The Authority may delegate specific or expanded powers to the director, including the powers to manage the affairs of the reformed bank and the powers of the Board of Directors. The HBC, which shall specify, for each bank, the powers of the

interim director, the scope of his work, his duties, the duration of his appointment, and his obligations to the it. The HBC may appoint a replacement for the interim director the remainder of his term. The same person may not be appointed as an interim director for more than one bank.

Article 22

The liquidation process is conducted with the aim of protecting financial stability and maximizing the value of the business for creditors as a whole. If the bank decides to undertake self-liquidation, it must submit an application to the HBC, demonstrating that its assets cover all obligations.

Article 23

The HBC may delist any bank in one of the following two situations:

1. Before commencing the bank's remediation process: Following receipt of an evaluation report from the BCCL, liquidation is recommended based on the criteria of insolvency or the likelihood of insolvency and the impossibility of recovering the bank through bank reform measures. The bank is given the right to present any defenses or provide supporting documents that contradict the submitted report, and this must be presented to the HBC within a maximum period of 15 days.
 2. At any time after the bank's recovery process has begun:
 - Following the authority's receipt of an evaluation report from the BCCL, which concluding that the bank is insolvent or likely to be insolvent, despite attempts to recover it through measures to reform the bank's position.
 - Following authority's receipt of an evaluation report from the Interim Director highlighting the need to liquidate the bank in question.
- Following the delisting decision, the HBC shall appoint a liquidator or liquidation committee, depending on the size of the liquidated bank.
 - When a bank is in liquidation, it must always use the phrase "in liquidation" next to its name, especially in its correspondence with third parties, until the liquidation process is completed.
 - After the date of issuance of the delisting decision and the commencement of the liquidation process, and if there are serious reasons to suspect that any of the major shareholders, members of

the Board of Directors, senior management, authorized signatories, or auditors who held their positions at the bank under liquidation in the ten years preceding the date of issuance of the delisting decision, has been involved in a civil or criminal offense, the liquidator/liquidation committee and/or the HBC must:

- Inform the above-mentioned individuals on the obligation to refrain from disposing of all or some of their movable and immovable property and their bank accounts, and to place a prohibition notice on them, in addition to a travel ban. The effect of these measures shall not exceed six non-renewable months.
- Requesting competent courts in Lebanon or abroad to impose a precautionary seizure on all or some of the movable and immovable assets of the aforementioned persons, in accordance with applicable Lebanese and foreign laws.
- Prosecute these people before the competent Lebanese courts and/or any competent foreign court for the civil and/or criminal liability they incur under applicable laws and regulations.

Article 24

The HBC shall appoint a liquidator or a liquidation committee of six members, depending on the size of the bank in question. This committee shall include:

- ❖ A member representing creditors
- ❖ A member representing shareholders
- ❖ A member representing depositors
- ❖ A banking and financial expert
- ❖ Legal expert
- ❖ The Chairman of the National Deposit Insurance Corporation or a representative appointed by that Chairman

The HBC shall appoint a chairman of this committee from among these members and define his powers. The chairman shall carry out the day-to-day work related to the liquidation process. Furthermore, any settlement agreement or any sale or liquidation of the bank's assets decided upon by

the Liquidation Committee shall not become effective until written approval has been obtained from the HBC.

The Liquidation Committee shall meet at the request of its chairman or two of its members. Its decisions shall be taken by a majority of its members. In the event of a vacancy in the committee's composition (death, resignation, health conditions, etc.), the HBC shall appoint a replacement within a reasonable period not exceeding 15 days.

The liquidator / any member of the liquidation committee must:

- ❖ Possess integrity, competence, independence, and professional experience in his field of expertise.
- ❖ Not to have any association or relationship of any kind, professional or personal, that might expose him to a conflict of interest or in any way affect his independence and judgment while performing the tasks assigned to him.
- ❖ Not to be debtor or deposited (more than 100,000 US dollars) with the bank or its affiliated institutions.
- ❖ Not to be a current or former member of the board of directors, senior management, or advisor to the relevant board under liquidation or any of its affiliated institutions, during the five years prior to his appointment.
- ❖ Has not conducted an audit of the accounts of the bank under liquidation during the two years preceding the delisting decision.
- ❖ Not to have a fourth-degree relative relationship with any shareholder or board member.

The HBC shall determine the fees of the Chairman and members of the Liquidation Committee and the bank shall bear the costs.

The decision to appoint the liquidator/liquidation committee shall be published in the Official Gazette, in at least one local newspaper, and on the website of the HBC and/or the CB and/or the BCCL.

Article 25

The liquidator / liquidation committee shall submit a liquidation plan to the HBC for approval. This plan shall include a structured timetable with a reasonable and specific deadline for the steps necessary to sell the bank's

assets and distribute the proceeds according to the arrangement of capital accounts and creditors as per the loss absorption ranks in the above table. The HBC shall approve this plan, monitor its implementation, and take the necessary measures in the event of any delays.

The liquidator/liquidation committee exercises the powers granted to it by the HBC and under its supervision and shall refer to it in advance regarding all transactions involving additional risks, liquidation of assets, or significant losses. Also, the liquidator / liquidation committee assists the National Deposit Insurance Corporation in the payment process.

The liquidator/liquidation committee replaces the board of directors and senior management of the bank concerned in all decisions, after written approval from the HBC. Moreover, it conducts an evaluation of the bank concerned or requests independent evaluators to conduct an evaluation or update a previous evaluation when necessary. Furthermore, it shall submit periodic reports to the HBC on the progress of the liquidation process of the concerned bank and shall provide any additional reports or information requested by the HBC. Additionally, the liquidator / liquidation committee shall have access to all information necessary to perform its duties.

Article 26

In liquidation cases, approved international auditing standards are applied, while respecting the hierarchy of capital accounts and creditors and protecting depositors. This article shall be applied in accordance with the mechanisms specified by the financial resolution and deposit recovery law.

Article 27

Creditors must declare their receivables and rights to the liquidator/liquidation committee within three months of the publication of the decision appointing the liquidator/liquidation committee in the Official Gazette, in at least one local newspaper, and on the website, as stated in Article 24, or they will lose their right to claim them. The bank in liquidation reserves the right of depositors to access information relating to the nature and value of their deposits.

Article 28

The National Deposit Insurance Corporation covers deposits during the liquidation process in accordance with the criteria set by the financial resolution and deposit recovery Law.

Article 29

The provisions of Article 15 of Law No. 110 of November 7, 1991, regarding the establishment of a special court in Beirut, apply. This court has the authority to judge appeals submitted pursuant to the provisions of this law and to resolve any dispute arising between a creditor or depositor, on the one hand, and the liquidator/liquidation committee, on the other hand, regarding a debt or deposit owed by the bank under liquidation.

Any pending case before the Lebanese Court of first degree related to a dispute between a creditor or depositor and the bank concerned, and in which a final decision has not been issued, shall be referred administratively to the Special Court within one month of the appointment of the liquidator/liquidation committee.

The Special Court shall consider all cases related to temporary pre-trial detention referred to in this law.

Except for an appeal before the competent Court of Appeal within 60 days from the date of issuance of the final judgment, the decisions of the Special Court are not subject to any administrative or judicial review, whether ordinary or extraordinary.

Article 30

The liquidated bank bears the expenses related to the liquidation process that is decided and approved by the HBC

Article 37

The law to be published in the official gazette and will be put on hold till the issuance of the financial resolution and deposit recovery law.

Conclusion: IMF Critique on the Issued Law

After the issuance of the law, the IMF had some comments on it; and we will mention the main ones hereafter.

First, the establishment of the second room of the HBC should be deferred until reforming the National Institute for the Guarantee of Deposits (NIGD). Currently, NIGD's Board of Directors is dominated by banks, and IMF recommends that it should be a public-managed institution. Moreover, IMF stated that external experts should be entirely independent from the Government, banking sector and immediate family members must not be borrowers or depositors.

Second, IMF opposes bank's ability to object the valuation as it deviates from international best practices. Additionally, they believe that that HBC's valuation option should be removed as it will weaken independence of valuation process and might lead to conflict between BCCL and HBC.

Third, IMF argued that previous draft should be reinstated to clearly state the objectives of the law as financial stability, continuity of critical functions, depositor protection, and minimization of public resource use. Moreover, they argued that this law applies to insolvent in addition to non-viable banks.

Fourth, regarding the liquidation priorities, IMF considers that this article (Article 26) should directly relate to the creditor hierarchy outlined in the appendix. It is to be noted that the issued law references the priorities in liquidity to international auditing standards **and the future financial resolution and deposit recovery law** as they are inadequate to define creditors' priorities in liquidation.

Lastly, IMF questions the legal certainty of the law. Not stating the degree of applicability of other legal provisions provides limited visibility of the regime, adds to the per-se fragmented structure, and risks possible discrepancies. Also, IMF thinks that it is critical to have more clarity after the new split in responsibilities between HBC's two rooms. Additionally, IMF considers that the provision in the previous version prepared by the government that

states that this law supersedes others, should be present to guarantee that HBC decisions are enforceable and unhindered.

Finally, we should keep in mind that this law will be implemented after the issuance of the financial resolution and deposit recovery law later this year. The latter will make clear which banks will be able to continue and which banks will need to be liquidated.

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