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Ways to resolve a financial cooperative while keeping the cooperative structure

Guidance paper

Prepared by the Resolution Issues for Financial Cooperatives Technical Committee
Core Principles and Research Council Committee

International Association of Deposit Insurers

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ABBREVIATIONS

AFCSIC	Agricultural and Fishery Co-operative Savings Insurance Corporation (Japan)
AMF	Autorité des Marchés Financiers (Québec, Canada)
BCC	Credit Cooperative Bank (“Banca di Credito Cooperativo”) (Italy)
BOJ	Bank of Jamaica
BRRD	Bank Recovery and Resolution Directive 2014/59/EU
BVR-ISG	National Association of German Cooperative Banks – Institutssicherung GmbH
CFF	Credito Cooperativo Fiorentino
CUDGC	Credit Union Deposit Guarantee Corporation (Alberta, Canada)
DBS	Dunfermline Building Society
DGS	Deposit Guarantee Scheme
DGSD	European Union Directive 2014/49/EU on Deposit Guarantee Schemes
DI	Deposit Insurer
DICJ	Deposit Insurance Corporation of Japan
DIDP Act	Deposit Institutions and Deposit Protection Act (Québec, Canada)
DIF	Deposit Insurance Fund
D-SIFI	Domestic Systemically Important Financial Institution
EU	European Union
FC	Financial Cooperative
FGA CONFIA	Fondo de Garantía de Ahorros Confía (Costa Rica)
FGCoop	Cooperative Credit Guarantee Fund (Brazil)
FGDBCC	Fondo di Garanzia dei Depositanti del Credito Cooperativo (Italy)
FGMICOOPE	Fondo de Garantía MICOOPE (Guatemala)
FITD	Fondo Interbancario di Tutela dei Depositi (Italy)
FOGACOOP	Fondo de Garantías de Entidades Cooperativas (Colombia)
FSA	Financial Stability Authority (Finland)
FSC Act	Financial Services Cooperatives Act (Québec, Canada)

FSCS	Financial Services Compensation Scheme (United Kingdom)
IADI	International Association of Deposit Insurers
IPS	Institutional Protection/Stabilisation Scheme
JCCUL	Jamaica Co-operative Credit Union League Ltd. (Jamaica)
JDIC	Jamaica Deposit Insurance Corporation (Jamaica)
LCA	Compulsory Administrative Liquidation (“Liquidazione Coatta Amministrativa”) (Italy)
M&A	Merger and Acquisition
NPL	Non-Performing Loan
P&A	Purchase and Assumption
RA	Resolution Authority
RFS Act	Regulation of the Financial Sector Act (Québec, Canada)
SA	Special Administration
RIFCTC	Resolution Issues for Financial Cooperatives Technical Committee
SIFI	Systemically Important Financial Institution
SRB	Single Resolution Board
SRM	Single Resolution Mechanism
SRR	Special Resolution Regime
UK	United Kingdom
UO	Umbrella Organisation/central organisation

LIST OF KEY TERMS¹

Bridge Institution (Bridge Bank)*: An entity that is established to temporarily take over and maintain certain assets, liabilities and operations of a failed deposit-taking institution as part of the resolution process.

Conservatorship (or temporary administration): The legal procedure provided by law or agreement for the interim management of troubled deposit-taking institutions. The deposit insurer and/or resolution authority requests that the Court orders the appointment of a conservator or a temporary administrator.

Demutualisation*: Demutualisation is the conversion of a cooperative, such as a financial cooperative, into an alternative organisational form (usually one owned by investors). Demutualisation can occur through the conversion of equity into investment shares, or it can occur via a merger, takeover or buyout involving companies that are not cooperatives or mutuals. Regardless of the form it takes, demutualisation involves the transfer to private investors of the capital that has been built up in the cooperative over the years.

Early intervention: Any actions, including formal corrective action, taken by supervisors, resolution authorities or deposit insurers in response to weaknesses in a deposit-taking institution prior to entry into resolution.

Financial Cooperative*: In this paper, financial deposit-taking institutions such as credit unions, “caisses populaires”, “cajas”, cooperative banks, “banche di credito cooperativo”, building societies or mutuals, are collectively referred to as Financial Cooperatives.²

Institutional Protection/Stabilisation Schemes: Contractual or statutory liability arrangements for a group of banks or financial cooperatives aimed at protecting the member institutions and, in particular, ensuring their liquidity and solvency to avoid failure. Objectives, mandates, powers and organisations of Institutional Protection/Stabilisation Schemes may vary between jurisdictions. Institutional Protection/Stabilisation Schemes can be embedded into a cooperative group or be standalone entities (external to a cooperative group).

Intervention: Any actions, including formal corrective action, taken by supervisors, resolution authorities or deposit insurers to address concerns that may arise with a deposit-taking institution. In this paper, actions taken by the Umbrella Organisations and Institutional Protection/Stabilisation Schemes to address issues of a weak member Financial Cooperative are also considered interventions.

Loss Minimiser: A mandate in which the deposit insurer actively engages in a selection from a range of least-cost resolution strategies.

Merger and Acquisition:** A transaction involving two deposit-taking institutions that combine in some form. Mergers and Acquisitions occur (between financial cooperatives) prior to the resolution stage and are a commonly used tool that enables the cooperative structure to be kept.

Pay-Box: A mandate in which the deposit insurer is only responsible for the reimbursement of insured deposits.

¹ Definitions of keys terms are mainly taken from the IADI Glossary.

* Definitions of terms indicated by an asterisk (*) are from RIFCTC’s first research paper titled “[Resolution Issues for Financial Cooperatives – Overview of Distinctive Features and Current Resolution Tools](#)”

** The definition of the term indicated by ** is adapted from the [Corporate Finance Institute](#).

² Savings banks may have different legal forms depending on the jurisdiction. There are jurisdictions (like Finland) where they are FCs. For the definition of an FC, see the RIFCTC’s first paper “[Resolution Issues for Financial Cooperatives – Overview of Distinctive Features and Current Resolution Tools](#)”

Pay-Box Plus: A mandate in which the deposit insurer has additional responsibilities, such as certain resolution functions (e.g. financial support).

Purchase and Assumption*: A resolution method in which a healthy deposit-taking institution or a group of investors assumes some or all of the obligations and purchases some or all of the assets of the failed deposit-taking institution.

Risk minimiser: A mandate in which a deposit insurer has comprehensive risk minimisation functions, including risk assessment/management, a full suite of early intervention and resolution powers, and in some cases, prudential oversight responsibilities.

Umbrella organisation: A central organisation that brings financial cooperatives together to enable them to offer a wider range of financial services and achieve their goals of satisfying the needs and maximising the welfare of their customers/members. It provides its members with a variety of services, including representing the cooperatives to the central bank and other banking system authorities, state or federal administration, and international organisations. It may also include financial assistance when capital requirements are not met or when liquidity is needed, as well as legal, managerial and technical assistance, sometimes with a special focus on newly created financial cooperatives. It is a self-regulatory organisation which monitors the conduct of its members and may have supervisory responsibility over them. In some jurisdictions, there is no government oversight of the self-regulatory umbrella organisation.³

³ This is the case in Jamaica, where the Jamaica Co-operative Credit Union League Ltd. – Stabilisation Fund is the only organisation that oversees credit unions. In this jurisdiction, credit unions are not deposit-taking institutions licensed under the Banking Services Act. Consequently, they are not regulated and supervised by the Bank of Jamaica, nor members of the Deposit Insurance Scheme, Jamaica Deposit Insurance Corporation.

This paper is mainly based on case studies collected between March and June 2019 from Resolution Issues for Financial Cooperatives Technical Committee members and non-members. Since then, some respondents may have had changes in their early intervention and resolution framework. Therefore, although some of the examples given in this paper may now no longer apply, they are useful references to how these issues have been approached in the past.

EXECUTIVE SUMMARY

Financial Cooperatives (FCs) have been shown to differ in some ways from banks. These differences have been highlighted in the research paper developed by the Resolution Issues for Financial Cooperatives Technical Committee (RIFCTC) and published by the International Association of Deposit Insurers (IADI) in January 2018.⁴ The first RIFCTC paper also presented an overview of resolution tools applicable to FCs. It indicated that resolution tools are almost the same for banks and FCs in most cases, but may need to be used differently for FCs in other cases. Indeed, there are sometimes significant challenges associated with the use of certain resolution tools for FCs. Some of those challenges make it difficult to keep the members, assets and liabilities of a failing FC in the financial cooperative system after an intervention (early intervention or resolution).

FCs bring diversity to financial services, foster a more competitive banking industry, and contribute to the policy goal of financial inclusion in some jurisdictions for underserved or unserved communities. Indeed, in some jurisdictions, FCs - especially non-systemic ones - primarily serve specific segments of the economy, including certain low-income, financially unserved or underserved communities as well as some small and medium-sized businesses. In addition, in some cases, FCs are the only financial institution in remote or sparsely populated areas.

As FCs play an important role in the financial system of a large number of jurisdictions worldwide, the RIFCTC has developed this guidance paper to analyse ways to resolve an FC - especially a non-systemic one - while keeping its members, assets and liabilities in the cooperative system (which is what is meant by “keeping the cooperative structure”).

Although in some cases, it may be desirable to keep the cooperative structure of an FC after intervention (when feasible, given their important economic role), this should not be at the expense of financial stability, depositor protection or taxpayer exposure to losses. These public policy objectives should rank above the objective of keeping the cooperative structure. The latter objective could, nevertheless, be considered once those public policy objectives have been achieved, depending on the importance of FCs in the jurisdiction.

The paper is aimed at FC DIs that have a resolution function (i.e., DIs with a Pay-Box plus, Loss or Risk minimiser mandate, for resolution powers) and/or a supervisory function (Risk minimiser mandate, for supervision and early intervention powers). When the supervision and early intervention powers are not within the purview of the DI, the paper could be useful to the agency that has these powers for FCs. A case study template was distributed to IADI members and non-members through representatives of some of the IADI regions,⁵ i.e., one regional representative per region. This process allowed the RIFCTC to reach out to multiple Deposit Insurers (DIs) and Institutional Protection/Stabilisation

⁴ The first research paper titled “[Resolution Issues for Financial Cooperatives – Overview of Distinctive Features and Current Resolution Tools](#)” is available on the IADI website.

⁵ IADI has eight regional committees: Africa Regional Committee, Asia-Pacific Regional Committee, Caribbean Regional Committee, Europe Regional Committee, Eurasia Regional Committee, Latin America Regional Committee, Middle East and North Africa Regional Committee, and North America Regional Committee.

Schemes (IPs), and also allowed some members to be better involved in the drafting process of the paper. The data pertain to 2019.⁶

The case study data reveal that no respondent jurisdiction is required by law to keep the cooperative structure of an FC at the end of the resolution process. However, in several jurisdictions, an effort is made to keep the cooperative structure when possible. The data also reveal that where umbrella organisations or central organisations (UOs) and/or IPs exist, they can play an important role in keeping the members, assets and liabilities of a troubled FC in the financial cooperative system after an intervention.⁷

Mergers and acquisitions (M&As) between FCs before the resolution stage are a commonly used tool that enables the cooperative structure to be kept. To achieve that, frameworks for early detection of troubled FCs and timely intervention need to be in place. At the resolution stage, purchases and assumptions (P&As) can also be used. However, to remain in the cooperative system, the assuming institution needs to be an FC.

⁶ Data were collected between March and May 2019.

⁷ In this paper, actions taken by UOs and IPs to address issues of a weak member FC are also considered interventions.

GUIDANCE POINTS

Based on the results of the analysis conducted using case studies, the following guidance points are provided for consideration in the intervention process of FCs, especially non-systemic ones, when members, assets and liabilities are intended to be kept in the financial cooperative system.

Some of these guidance points are general to all jurisdictions with FCs, while others are specific to jurisdictions where FCs unite under or collaborate with UOs and/or where IPSs are available.

Some prerequisites are important for the implementation of these guidance points. For example, some or all of the guidance points may not be applicable to certain DIs that deal with FCs, depending on the mandate of the DI, the structure of the financial sector, the respective roles of various financial safety-net participants, etc.

Guidance for FC DIs, regardless of the presence (or absence) of a UO/IPS (when the cooperative structure is intended to be kept)

1. To increase the chances of keeping the cooperative structure, DIs with extensive responsibilities, such as preventive action and risk minimisation/management should have a robust framework for an early detection and timely intervention for FCs, unless such powers are assigned to a UO/IPS or supervisory authority. Such frameworks may help to avoid the failure of an FC or help to find a way to merge it with another FC before failure, thereby keeping the cooperative structure. Early detection and timely intervention could also prevent the erosion of customer and depositor confidence in the financial cooperative sector.

2. FC DIs should participate in regular contingency planning and simulation exercises based on a wide range of scenarios with different particularities. This is especially important for jurisdictions that have to deal with new powers or where few FCs have failed. Lessons learned during simulation exercises could help DIs prepare for quick decision-making and may compensate for lack of experience.

Guidance for FC DIs in the presence of a UO/IPS (when the cooperative structure is intended to be kept)

3. In the case of the coexistence of DIs and UOs/IPSs, objectives, mandates and powers of each organisation should be clearly defined in law, regulation or agreements (such as Memoranda of Understanding)

- Legislation, regulation or arrangements within the UO or IPS could give sufficient intervention powers to those UOs/IPSs to enable them to deal with issues faced by a weak FC at an early stage or merge it with a stronger FC. Those powers could allow issues to be internalised, minimise the risk of failure of a weak FC and reduce the cost to the DI.

4.

In jurisdictions where UOs/IPs can be considered as a first line of defence and the DI as the second line of defence, it is important that the financial strength of UOs/IPs, and their actions regarding a specific FC, be monitored by the relevant authority. DIs with a resolution function and a supervisory function should be proactive in dealing with emerging weaknesses in UOs/IPs, including having an internal contingency plan in place to determine in advance how those DIs might respond in the event that UOs/IPs are no longer able to serve as the first line of defence to protect depositors.

Notwithstanding the powers of UOs/IPs, those DIs should have the power to intervene when necessary, for example when the UOs/IPs do not take action in a timely and appropriate manner while there is an increasing risk on the cooperative system or on financial stability.

5.

In jurisdictions where the powers of the DI and/or the UO/IPs allow it, P&A (including M&A) with a strong FC could be considered among the preferred strategies to deal with a troubled FC when the cooperative structure is intended to be kept.

- In jurisdictions where UOs/IPs are available and have the necessary authority and responsibility, it may be desirable for the DI to allow the UO/IPs to work towards facilitating M&As between troubled FCs and healthy FCs before direct intervention by the DI.

1. INTRODUCTION

An FC is a member-owned financial institution, set up with the purpose of providing financial services such as receiving deposits and making loans primarily to its members, in which membership is often based on residence or another common bond and where each member participates to some extent in the decision-making process, generally via the one member - one vote principle. Deposit-taking institutions such as credit unions, “caisses populaires”, “cajas”, cooperative banks, “banche di credito cooperativo” and building societies are FCs.

FCs play an important role in the financial system of a large number of jurisdictions worldwide. They bring diversity to financial services and contribute to the policy goal of financial inclusion. They also contribute to fostering a more competitive banking sector. In some jurisdictions, FCs - especially non-systemic ones - primarily serve specific segments of the economy, including certain low-income, financially unserved or underserved communities as well as some small and medium-sized businesses. In addition, in some cases, FCs are the only financial institution in remote or sparsely populated areas.

There are differences between FCs and publicly traded banks, for example, in terms of ownership, access to capital, the feeling of belonging that customers may have towards their financial institution, and participation of customers (and as such, members) in the decision-making process. Due to some of these differences, certain tools used for the resolution of banks cannot always be used directly for FCs. Sometimes, these tools need to be adapted because their use for FCs raises challenges, such as the difficulty in accessing external capital because of their cooperative nature or the need for demutualisation in some cases. Some of these challenges make it difficult to keep the members, assets and liabilities of a troubled FC in the financial cooperative system after an intervention.

The RIFCTC⁸ was set up by IADI in June 2014. Its mandate is notably to (1) highlight the importance of FCs for the financial system of a large number of jurisdictions, (2) share ideas and expertise from DIs around the world, and (3) discuss the need to adapt the tools used in the resolution of banks to Financial Cooperatives, according to their distinctive features.⁹ In January 2018, the RIFCTC published its first paper – a research paper – titled “[Resolution Issues for Financial Cooperatives – Overview of Distinctive Features and Current Resolution Tools](#)”.¹⁰

The current paper – a guidance paper – is the second paper written by the RIFCTC. The purpose of this paper is to analyse ways, tools and methods to resolve FCs – especially non-systemic ones - while keeping their members, assets and liabilities in the financial cooperative system (which is what is meant by “keeping the cooperative structure”), taking account of past experiences of DIs (or UOs and/or IPSs) and current developments within jurisdictions regarding early intervention and resolution of FCs, and to provide guidance on the topic.

Although in some cases, it may be desirable to keep the cooperative structure of an FC after intervention (when feasible, given their important economic role), this should not be at the expense of financial stability, depositor protection or taxpayer exposure to losses. These public policy objectives should rank above the objective of keeping the cooperative structure. The latter objective could, nevertheless, be considered once those public policy objectives have been achieved, depending on the importance of FCs in the jurisdiction.

The paper is aimed at FC DIs that have a resolution function (i.e., DIs with a Pay-Box plus, Loss or Risk minimiser mandate, for resolution powers) and/or a supervisory function (Risk minimiser mandate, for supervision and early intervention powers). When the supervision and early intervention powers are not within the purview of the DI, the paper could be useful to the agency that has these powers for FCs. The data used in the paper were collected between March and June 2019. The RIFCTC created a drafting group composed of regional representatives (from IADI regions) who were responsible for

⁸ The original name was “Subcommittee on Resolution Issues for Financial Cooperatives”.

⁹ The RIFCTC has been chaired by the Autorité des Marchés Financiers (Québec, Canada) since its inception in June 2014. Please refer to Annex 1 for a List of the RIFCTC members.

¹⁰ A [French translation of this paper](#) is also available on the IADI website.

reaching out to, and gathering information from, other DIs (or IPSs) of their respective region. This process allowed the RIFCTC to reach out to multiple DIs and IPSs, and also allowed some RIFCTC members to be directly involved in the drafting process of the paper.

The data reveal that, although no respondent jurisdiction is required by law to retain the members, assets and liabilities of a troubled FC in the financial cooperative at the end of a resolution process, many jurisdictions aim for that goal.

The data also reveal that UOs and/or IPSs can play an important role in keeping the cooperative structure of a troubled FC after an intervention (preventive measures stage or resolution stage). M&As between FCs before the resolution stage are a commonly used tool to retain members, assets and liabilities in the financial cooperative system, assuming that the receiving FC is sufficiently strong. At the resolution stage, P&A with another FC can also be used.

Based on the results of the analysis of case studies and discussions of the RIFCTC, the paper provides guidance points to help DIs with a resolution function and/or a supervisory function to keep the cooperative structure of FCs (especially non-systemic ones) at the end of an intervention process, when possible.

The rest of the paper is structured as follows. Section 2 describes the methodology used in the paper and Section 3 presents an overview of features of deposit insurance systems and membership structures of the case study respondents. Section 4 presents resolution powers and tools available to DIs and UOs/IPSs for the resolution of FCs, and Section 5 presents ways, tools and methods actually used for the resolution of FCs while keeping the cooperative structure. Section 6 presents the final remarks and the guidance points.

2. METHODOLOGY

To draft this paper, the RIFCTC created a drafting group composed of regional representatives from some of the IADI Regional Committees, namely Asia-Pacific, Caribbean, Europe, Latin America, and North America.

Regional representatives were responsible for reaching out to, and gathering information from, other DIs (or UOs/IPs) of their respective region that were willing to share their experience in early intervention or resolution of FCs, whether these jurisdictions are IADI members or not. They were also responsible for summarising the situation in their region, and then for submitting case studies and summaries to the Autorité des Marchés Financiers (Québec, Canada), which has been steering the drafting group. Table 1 gives a list of the designated regional representatives.

TABLE 1: LIST OF DESIGNATED REGIONAL REPRESENTATIVES

Regional Committee	Representative (Jurisdiction)	Organisation	Contact's name
Asia-Pacific	Chinese Taipei	Central Deposit Insurance Corporation (CDIC)	Ms Margaret Chuang
Caribbean	Jamaica	Jamaica Deposit Insurance Corporation (JDIC)	Ms Eloise Williams Dunkley
Europe	Italy	Fondo Interbancario di Tutela dei Depositi (FITD)	Mr Gianluca Grasso
Latin America	Brazil	Fundo Garantidor do Cooperativismo de Crédito (FGCoop)	Mr Cláudio Luis Medeiros Weber
North America	Québec (Canada)	Autorité des Marchés Financiers (AMF)	Mr Julien Reid (Chairperson)

The data in the paper come mainly from case studies, which were distributed in February 2019 to organisations worldwide, including RIFCTC members and non-members, and returned between March and June 2019. The data reflect up-to-date information as of the date of receipt of the case studies, unless otherwise indicated. Since then, some respondents may have had changes in their early intervention and resolution framework. Therefore, although some of the examples given in this paper may now no longer apply, they are useful references to how these issues have been approached in the past.

Table 2 gives a list of DIs (or UOs/IPs) with FCs in their jurisdiction that participated in the case studies. They are 15 in total.

TABLE 2: LIST OF PARTICIPATING JURISDICTIONS IN THE CASE STUDIES WITH FINANCIAL COOPERATIVES

	Jurisdiction	Organisation¹	Year of Inception	Function	Mandate
	Asia-Pacific				
1	Chinese Taipei	Central Deposit Insurance Corporation (CDIC)	1985	DI, RA	Risk Minimiser
2	Japan	Agricultural and Fishery Co-operative Savings Insurance Corporation (AFCSIC)*	1973	DI, RA	Loss Minimiser
3	Japan	Deposit Insurance Corporation of Japan (DICJ)	1971	DI, RA	Loss Minimiser
	Caribbean				
4	Jamaica	Jamaica Co-operative Credit Union League Ltd. (JCCUL) – Stabilisation Fund*	1977	Self-regulatory UO, IPS	~Risk Minimiser
	Europe				
5	Finland	Financial Stability Authority (FSA)	1970	DI, RA	Pay-Box Plus
6	Germany	National Association of German Cooperative Banks - Institutssicherung GmbH (BVR-ISG)*	1934 (IPS) 2015 (BVR-ISG)	DI, IPS	Risk Minimiser
7	Italy	Fondo di Garanzia dei Depositanti del Credito Cooperativo (FGDBCC)*	1997	DI	Risk Minimiser
8	Spain	Fondo de Garantía de Depósitos de Entidades de Crédito (FGDEC)	1977 (Banks & Saving Banks); 1982 (FCs); 2011 (Merger of the three systems - FGDEC)	DI, contribution to resolution	Pay-Box Plus
9	United Kingdom	Financial Services Compensation Scheme (FSCS)	2001	DI, contribution to resolution	Pay-Box Plus
	Latin America				
10	Brazil	Cooperative Credit Guarantee Fund (FGCoop)	2013-2014	DI	Pay-Box Plus
11	Colombia	Fondo de Garantías de Entidades Cooperativas (FOGACOOP)	1998	DI, lender of last resort	Loss Minimiser
12	Costa Rica	Fondo de Garantía de Ahorros Confia (FGA CONFIA)*	2018-2019	DI, RA	Loss Minimiser

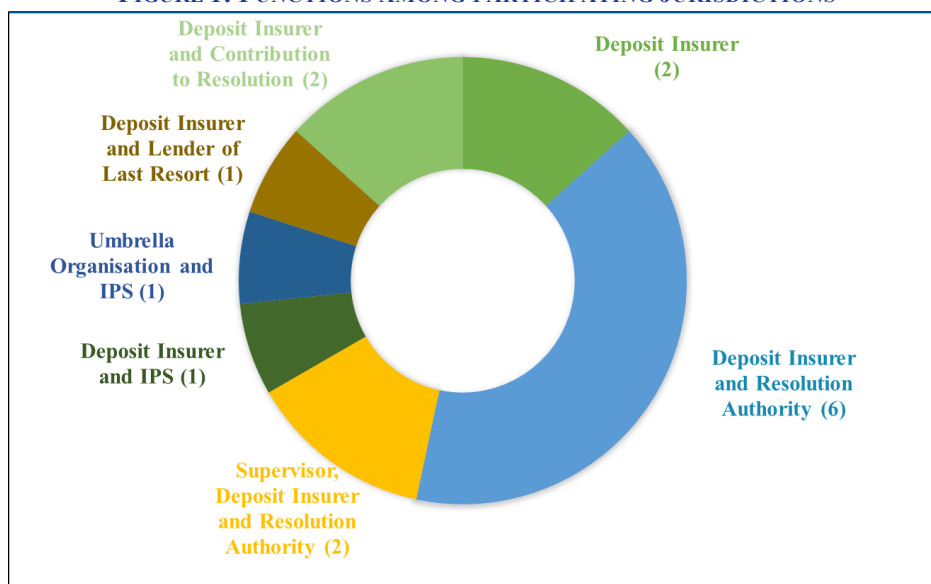
	Jurisdiction	Organisation¹	Year of Inception	Function	Mandate
13	Guatemala	Fondo de Garantía MICOOPE (FGMICOOPE)*	2010	DI, RA	Pay-Box Plus
North America					
14	Alberta (Canada)	Credit Union Deposit Guarantee Corporation (CUDGC)*	1974	Supervisor, DI, RA	Risk Minimiser
15	Québec (Canada)	Autorité des Marchés Financiers (AMF)	1967 (DI); 2004 (Integrated regulator-AMF)	Supervisor, DI, RA	Risk Minimiser

* Non-IADI member organisations are indicated by an asterisk (*).

3. OVERVIEW OF KEY FEATURES OF DEPOSIT INSURANCE SYSTEMS AND MEMBERSHIP STRUCTURES

Among the 15 respondent jurisdictions, even if the DI function is mostly their core business, the majority assume other functions. Indeed, there are only two respondents that have only the DI function (Italy (FGDBCC) and Brazil (FGCoop)). The most common combination of functions is the DI and RA with six respondents having both (Chinese Taipei (CDIC), Costa Rica (FGA CONFIA), Finland (FSA), Guatemala (FGMICOPE), Japan (AFCSIC) and Japan (DICJ)). There are two jurisdictions that are integrated regulators assuming three functions, i.e., DI, RA and supervisor (Québec-Canada (AMF) and Alberta-Canada (CUDGC)).¹¹ Two jurisdictions answered that they have the DI function, but can also contribute to resolution, notably by assuming part of the cost of resolution (United Kingdom (FSCS) and Spain (FGDEC)), and another one assumes the function of lender of last resort (Colombia (FOGACOOPE)). BVR-ISG in Germany is run as an IPS, but assumes the DI function, while JCCUL in Jamaica is a self-regulatory UO with an IPS.

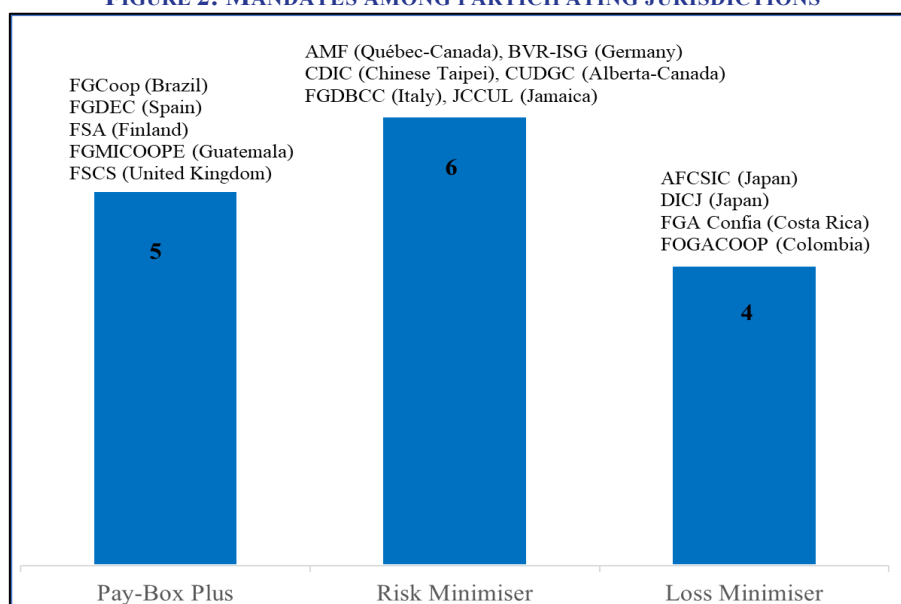
FIGURE 1: FUNCTIONS AMONG PARTICIPATING JURISDICTIONS



Risk Minimiser mandate is found in 6 out of 15 participating jurisdictions, followed by Pay-Box Plus mandate and Loss Minimiser mandate with 5 and 4 out of 15 participating jurisdictions, respectively. None of the respondent jurisdictions indicated having a Pay-Box mandate.

¹¹ Some UOs/IPSs also have supervisory functions.

FIGURE 2: MANDATES AMONG PARTICIPATING JURISDICTIONS

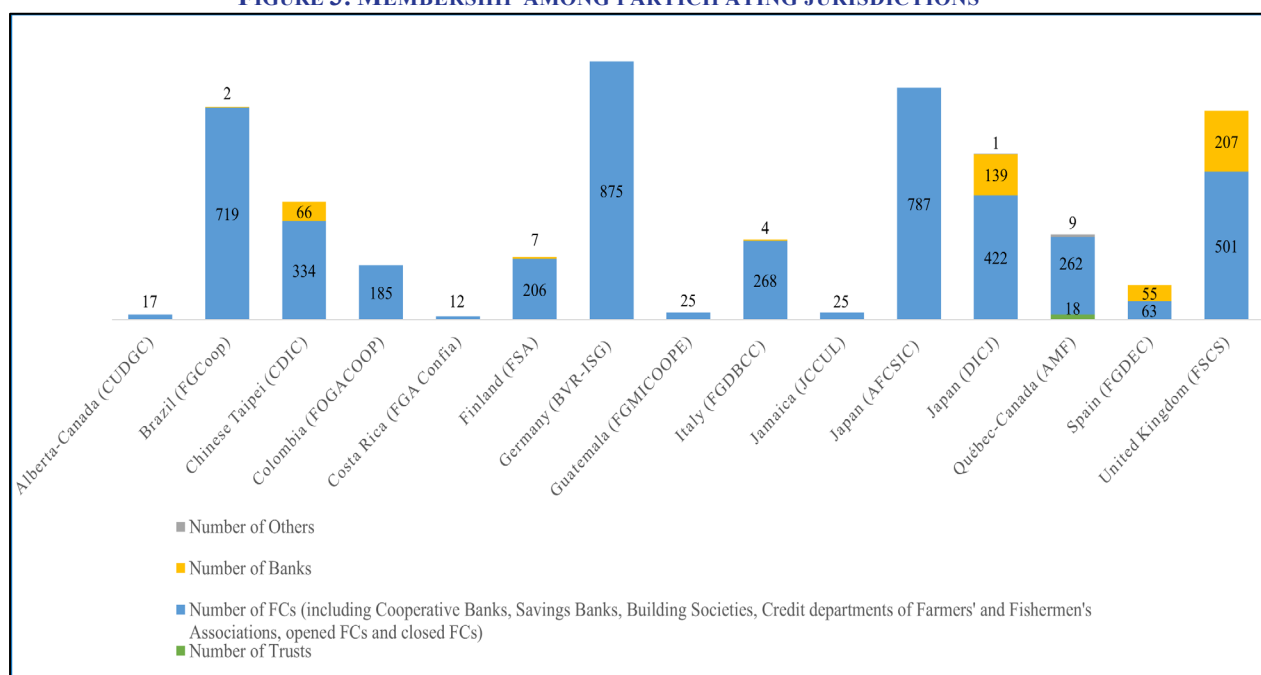


All respondents indicated having FCs as member institutions. For six of them, FCs are the only type of member under their jurisdiction, namely AFCSIC (Japan), BVR-ISG (Germany), CUDGC (Alberta-Canada), FGS CONFIA (Costa Rica), FOGACOOPE (Colombia) and FGMICOOPE (Guatemala). JCCUL (Jamaica) has also only FCs (i.e. credit unions) as members, but unlike other respondents, it is a self-regulatory UO which is entrusted the day-to-day operational management of the Stabilisation Fund, an IPS. The Stabilisation Fund is designed to stabilise FCs in need of capital and/or liquidity injection via loans, guarantees or grants. There is no government oversight of JCCUL, as FCs (i.e. credit unions) are not licensed as deposit-taking institutions, unlike commercial banks, merchant banks and building societies, which are licensed under the Banking Services Act (BSA). Therefore, FCs are not presently regulated and supervised by the Bank of Jamaica (BOJ), nor are they members of the Deposit Insurance Scheme, managed by the Jamaica Deposit Insurance Corporation (JDIC).

Germany (BVR-ISG) is the participating jurisdiction that has the largest number of FCs, with 875 FCs, followed by Japan (AFCSIC) with 787 FCs, Brazil (FGCoop) with 719 FCs, United Kingdom (FSCS) with 501 FCs and Japan (DICJ) with 422 FCs.

Some respondents reported that they have other types of members. This is the case of Québec-Canada (AMF) with two life insurers (which are authorised to take deposits) and seven loan companies. Seven respondents also have some banks as member institutions, namely Brazil (FGCoop), Chinese Taipei (CDIC), Finland (FSA), Italy (FGDBCC), Japan (DICJ), Spain (FGDEC) and United Kingdom (FSCS). Finally, for Japan (DICJ), there is another type of member (the Shoko Chukin Bank, Ltd) which is a special institution dedicated to small and medium-sized enterprises.

FIGURE 3: MEMBERSHIP AMONG PARTICIPATING JURISDICTIONS



As shown in Table 3, the complexity of FCs differs among jurisdictions.

Asia-Pacific region

In all three respondent jurisdictions of the Asia-Pacific region (AFCSIC-Japan, DICJ-Japan and CDIC-Chinese Taipei), there are UOs. Under the jurisdiction of AFCSIC, the Norinchukin Bank, which is designated as a D-SIB by the Japanese authorities,¹² is the UO of agricultural and fishery cooperatives, which includes 787 FCs (i.e. agricultural and fishery cooperatives). In terms of concentration for the DI, the Norinchukin Bank and its FC members account for 100% of the deposits insured by AFCSIC. Under the jurisdiction of the DICJ, there are three UOs for FCs, one for Shinkin banks, one for Credit Cooperatives and another for Labour Banks.¹³ The total number of FCs that are members of these UOs is 422. These 422 FCs represent 16.63% of the eligible deposits insured by the DICJ. In Chinese Taipei (CDIC), an association (UO) called the National Federation of Credit Cooperatives is set up for the 23 FCs of the jurisdiction. Under the DICJ and CDIC, there is no FC designated as a systemically important financial institution (SIFI).

Europe region

For the Europe region, FCs are members of a UO in Finland, Italy and Spain. In Finland, the 206 FCs under the jurisdiction of the FSA are members of one of three UOs, namely OP Financial Group (OP Osuuskunta), POP Bank Group (POP Pankkiliitto osk) and the Saving Banks Group (Säästöpankkiliitto osk; Savings Banks' Union Coop). Among these three groups, the OP Financial Group is the only one designated as a SIFI in the European Banking Union. In Italy (FGDBCC), the FC system (i.e. BCCs - Banche di Credito Cooperativo (Credit Cooperative Bank) - system) was reformed in 2016.¹⁴ The structure of the system entails two UOs (called “apex companies” in Italy), governing 229 FCs, within two distinct cooperative banking groups. The two groups are significant and supervised by the European

¹² Source: The Norinchukin Bank, Annual report 2018, p.41
https://www.nochubank.or.jp/en/ir/annual_report/pdf/ar_2018.pdf

¹³ Labour Banks are defined as “Japan’s only specialised financial institutions for workers, meeting the financial needs of workers and their organisations in keeping with the purpose of the banks’ establishment.” Source: A guide to Labour Banks, National Association of Labour Banks, 2011, p.8.

¹⁴ Source: European Association of Co-operative Banks, BCC: The Reform of the co-operative Banks in Italy is now law, 8 April 2016. <http://www.eacb.coop/en/news/members-news/bcc-the-reform-of-the-co-operative-banks-in-italy-is-now-law.html>

Central Bank within the Single Supervisory Mechanism and under the remit of the Single Resolution Board (SRB) within the Single Resolution Mechanism (SRM). There are also 39 FCs that are part of an IPS within the province of Bolzano. In Spain, there are 63 FCs under the FGDEC, the deposit guarantee fund for credit entities such as FCs. Fifty-five (55) out of 63 FCs are members of one of the three UOs that are IPSs. No UO nor FC is designated as a SIFI. In Germany, there are 875 FCs (i.e. cooperative banks), all of which are owners of the DZ Bank AG, a cooperative central institution in the legal form of a joint-stock company (but not listed on a stock exchange), which is designated as a SIFI, but not a UO. Most of them are small or medium-sized, less complex, legally independent and mostly active only regionally. BVR-ISG, the officially recognised deposit protection scheme of the 875 German FCs, is run as an IPS. In the United Kingdom (UK), there are two types of FC under the jurisdiction of the FSCS: 457 credit unions and 44 building societies. There is no central or umbrella organisation for the building society sector although they are all members of a trade body, the Building Societies Association. One building society of the jurisdiction - Nationwide Building Society - has been designated by the Bank of England as a SIFI.

Caribbean region

For the Caribbean region, in Jamaica, all 25 FCs (i.e. credit unions) are autonomous entities with their own governance structure, but they are all members of the self-regulatory UO, JCCUL, which also manages an IPS. The JDIC manages the Deposit Insurance Scheme for deposit-taking institutions licensed by the BOJ. Legislation to bring credit unions under the regulatory ambit of the BOJ and admit credit unions as members of the deposit insurance scheme managed by the JDIC is pending.¹⁵

Latin America region

In the Latin America region, most FCs have a simple structure, notably in Colombia (FOGACOOPE), Costa Rica (FGA CONFIA) and Guatemala (FGMICOOPE). In the first two jurisdictions, there is no IPS or UO, and no FC is designated as a SIFI. However, there is a UO in Guatemala. This UO (FENACOAC – MICOOPE) is composed of 25 FCs. The FGMICOOPE is the DI and RA of these 25 FCs. As for Brazil, the type, size and level of complexity of FCs are diverse. In Brazil, there are 864 FCs, of which 719 are under the jurisdiction of FGCoop. In this group, 615 are organised into 29 credit centrals which are linked to four confederations. There are also five credit centrals not linked to any confederation that regroup 40 FCs. Moreover, there are 64 FCs that are not affiliated with any credit central or any confederation. In terms of concentration for the DI, the 615 FCs linked to credit centrals and confederations account for 77.86% of the insured deposits of FGCoop, while those 40 FCs linked to credit centrals only account for 5.80%. The ten FCs with the largest deposit accounts hold 25.96% of the insured deposits of FGCoop, and they are not under the same system.

North America region

For the North America region, the two respondent jurisdictions have designated their largest FCs as SIFIs. In Alberta-Canada (CUDGC), the two largest FCs (out of the 17) designated as SIFIs account for 82% of the system assets. In Québec-Canada, there are a total of 262 FCs, including the Fédération des caisses Desjardins du Québec, a UO, which also takes deposits from some businesses. This UO and its 260 member FCs (i.e. Desjardins caisses) form a network of non-systemic FCs (credit unions or “caisses”). This network, together with the Fonds de sécurité Desjardins (i.e. the IPS), make up the Desjardins Cooperative Group (hereafter “Cooperative Group”).¹⁶ All FCs in Québec-Canada, except one, are part of the Desjardins Group, a cooperative domestic systemically important financial institution (D-SIFI). In terms of concentration, the FC members of the Desjardins Group account for 99% of the deposits insured by the AMF.

¹⁵ Once FCs are licensed by the Bank of Jamaica, they are required to apply to the Jamaica Deposit Insurance Corporation for deposit insurance and become members of the Deposit Insurance Scheme.

¹⁶ Under the Act Respecting Financial Services Cooperatives (FSC Act), s. 6.1 and 6.2.

TABLE 3: COMPLEXITY OF FINANCIAL COOPERATIVES AMONG PARTICIPATING JURISDICTIONS

Jurisdiction	Umbrella's name (s)	Numbers of the umbrellas' FC Members (if none, numbers of the DI's FC members)	SIFI	Umbrella feature s: with IPS	FCs' insured deposits as a percentage of total insured deposits of the DI
Asia-Pacific					
Chinese Taipei (CDIC)	National Federation of Credit Cooperatives	23 FCs (i.e. credit cooperatives)	<input type="checkbox"/>	<input type="checkbox"/>	2.0%
Japan (AFCSIC)	Norinchukin Bank	787 FCs (i.e. agricultural and fishery cooperatives)	<input type="checkbox"/>	n/a	100%
Japan (DICJ)	Shinkin Central Bank	261 FCs (i.e. Shinkin banks)	<input type="checkbox"/>	n/a	12.98% ^a
	Shinkumi Federation Bank	148 FCs (i.e. credit cooperatives)	<input type="checkbox"/>	n/a	1.88% ^b
	Rokinren Bank	13 FCs (i.e. labour banks)	<input type="checkbox"/>	n/a	1.77% ^c
Caribbean					
Jamaica (JCCUL)	Jamaica Co-operative Credit Union League Ltd.	25 FCs (i.e. credit unions)	<input type="checkbox"/>	<input type="checkbox"/>	Not applicable, as JCCUL is a UO, not a DI ^d
Europe					
Finland (FSA)	Op Financial Group (OP Osuuskunta)	156 FCs (i.e. cooperative banks)	<input type="checkbox"/>	<input type="checkbox"/>	Not available
	POP Bank Group ((POP Pankkiliitto osk)	27 members (i.e. cooperative banks)	<input type="checkbox"/>	<input type="checkbox"/>	Not available
	The Saving Banks Group (Säästöpankkiliitto osk; Savings Banks' Union Coop)	23 FCs (i.e. saving banks)	<input type="checkbox"/>	<input type="checkbox"/>	Not available
Germany (BVR-ISG)	[DZ Bank AG] ^e	875 FCs (i.e. cooperative banks)	<input type="checkbox"/>	<input type="checkbox"/> ^f	100 % ^g
Italy (FGDBCC)	Iccrea Banca S.p.A.	142 FCs (i.e. Banche di Credito Cooperativo), plus Iccrea Banca S.p.A. (Apex Company), plus Banca Sviluppo S.p.A. (bridge bank)	<input type="checkbox"/> ^h	<input type="checkbox"/> ⁱ	59.7%
	Cassa Centrale Banca – Credito Cooperativo Italiano S.p.A.	87 FCs (i.e. Banche di Credito Cooperativo), plus Cassa Centrale Banca (Apex Company)	<input type="checkbox"/> ^h	<input type="checkbox"/> ⁱ	33.8%

Jurisdiction	Umbrella's name (s)	Numbers of the umbrellas' FC Members (if none, numbers of the DI's FC members)	SIF I	Umbrella feature s: with IPS	FCs' insured deposits as a percentage of total insured deposits of the DI
	<input type="checkbox"/>	39 FCs (i.e. Banche di Credito Cooperativo), plus Cassa Centrale Raiffeisen S.p.A. (Second Tier bank))	<input type="checkbox"/>	<input type="checkbox"/> ^j	6.5%
Spain (FGDEC)	Banco Cooperativo Español, S.A.	30 FCs	<input type="checkbox"/>	<input type="checkbox"/>	5.1%
	Banco de Crédito Social Cooperativo	19 FCs	<input type="checkbox"/>	<input type="checkbox"/>	2.7%
	Caja Rural de Almedralejo	6 FCs	<input type="checkbox"/>	<input type="checkbox"/>	0.2%
	<input type="checkbox"/>	8 FCs	<input type="checkbox"/>	<input type="checkbox"/>	3.0%
United Kingdom (FSCS)	<input type="checkbox"/>	44 FCs (i.e. building societies)	<input type="checkbox"/> ^k	<input type="checkbox"/>	Not available
	<input type="checkbox"/>	457 FCs (i.e. credit unions)	<input type="checkbox"/>	<input type="checkbox"/>	Not available
Latin America					
Brazil (FGCoop)	SICOOB (confederation) 16 credit centrals	391 FCs	<input type="checkbox"/>	<input type="checkbox"/>	38.69%
	Sicredi (confederation) 5 credit centrals	110 FCs	<input type="checkbox"/>	<input type="checkbox"/>	30.92%
	UNICRED (confederation) 4 credit centrals	35 FCs	<input type="checkbox"/>	<input type="checkbox"/>	6.17%
	CRESOL (confederation) 4 credit centrals	79 FCs	<input type="checkbox"/>	<input type="checkbox"/>	2.08%
	(AILOS, CELOOP, CECRERS, CREDISIS, and UNIPRIME)	40 FCs	<input type="checkbox"/>	<input type="checkbox"/>	5.80%
	<input type="checkbox"/>	64 FCs	<input type="checkbox"/>	<input type="checkbox"/>	2.66%
Colombia (FOGACOOP)	<input type="checkbox"/>	5 FCs (i.e. opened FCs) 180 FCs (i.e. closed FCs)	<input type="checkbox"/>	<input type="checkbox"/>	100%

Costa Rica (FGA CONFIA)	<input type="checkbox"/>	12 FCs	<input type="checkbox"/>	<input type="checkbox"/>	100%
Guatemala (FGMICOOPE)	FENACOAC - MICOOPE	25 FCs (i.e. credit unions)	<input type="checkbox"/>	<input type="checkbox"/>	100%
North America					
Alberta-Canada (CUDGC)	<input type="checkbox"/>	17 FCs (i.e. credit unions)	<input type="checkbox"/>	<input type="checkbox"/>	100%
Québec-Canada (AMF)	Fédération des caisses Desjardins du Québec	260 FCs (i.e. Québec's Desjardins caisses)	<input type="checkbox"/>	<input type="checkbox"/>	99.0% ¹
	<input type="checkbox"/>	1 FC (not member of a federation)	<input type="checkbox"/>	<input type="checkbox"/>	0.02% ¹

Source: RIFCTC's case studies (2019)

Notes

^a Figure here does not include the related figure of Shinkin Central Bank, and % of the eligible deposits of the DI.

^b Figure here does not include the related figure of Shinkumi Federation Bank, and % of the eligible deposits of the DI.

^c Figure here does not include the related figure of Rokinren Bank, and % of the eligible deposits of the DI.

^d The Stabilisation Fund maintained by JCCUL is designed to ensure the financial stability of FCs (i.e. credit unions). Its fundamental objective is to protect members' savings through stabilising their credit unions in distress rather than through liquidation/payouts. Credit unions are not part of the deposit-taking institutions licensed by the BOJ, nor members of the deposit insurance scheme (JDIC).

^e The DZ BANK AG is the Cooperative Central Bank of the German Cooperative Banks, but it is not a legal UO. DZ Bank AG is a SIFI and owned by the regional cooperative banks. All of the German Cooperative Banks are completely independent banks with a full broad set of products and services and are fully supervised by BaFin with the Bundesbank.

^f In Germany, the IPS is not a feature of DZ BANK AG but of BVR-ISG, which is run as an IPS.

^g Insured deposits of German Cooperative Banks represent 28% of all German insured deposits.

^h SIFI at group level.

ⁱ IPS as defined in art. 4, par. 127 of Regulation (EU) No 575/2013.

^j BCCs are part of an IPS within the province of Bolzano.

^k Nationwide Building Society, one building society of the jurisdiction, is designated by the Bank of England as a systemically important institution.

¹ The remaining 0.98% (to sum to 100.0%) comes from deposits received by three other Québec-chartered deposit-taking institutions that are not FCs (one trust and two insurers).

4. OVERVIEW OF CURRENT RESOLUTION POWERS AND TOOLS TO RESOLVE FINANCIAL COOPERATIVES

Several respondent jurisdictions have a framework for early intervention and resolution of FCs, namely Chinese Taipei (CDIC), Colombia (FOGACOOOP), Jamaica (JCCUL), United Kingdom (FSCS), Alberta-Canada (CUDGC), and Québec-Canada (AMF). For Guatemala, the FGMICOOPE has put in place its own private resolution scheme as no such framework has been provided for credit unions by the government.

In Chinese Taipei, the CDIC's legislative framework pertaining to the resolution of FCs comprises the Credit Cooperative Act, the Bank Act and the Deposit insurance Act.

In Colombia, the legislative framework of FOGACOOOP is composed of Law 454 (1998) and five decrees. Notably, Decree 960 (2018) establishes the process whereby FOGACOOOP takes a mandatory decision to support the financial sustainability of an FC that has financial problems in order to protect its depositors, while Decree 2206 (1998) frames other operations available to FOGACOOOP to resolve a FC.

In Jamaica, the legal and operating frameworks governing the resolution of FCs are provided for in the Co-operative Societies Act and the JCCUL Rules. The FC can ultimately be placed under temporary management by JCCUL, with the approval of the Registrar of Co-operative Societies. The options usually available to JCCUL (and its IPS), in order to stabilise a failing FC, include notably (1) providing funding/liquidity support by way of a grant, loan or guarantee, (2) increasing the permanent share amount which all members/savers of the FC are required to hold in order to be a member of the FC, (3) temporary management by JCCUL, (4) compulsory dissolution, and (5) M&As.

In the United Kingdom (FSCS), the legal framework comprises the Banking Act 2009 which includes the Special Resolution Regime (SRR) code of practice. The SRR was introduced following the financial crisis, and it applies to building societies (a type of FC which are typically larger) but not to credit unions (another type of FC which are typically smaller).

In Alberta-Canada, CUDGC operating under the Credit Union Act has responsibilities to (1) assist and/or stabilise FCs to avert or alleviate financial difficulties, (2) supervise or administer the business affairs of FCs, (3) assist with the purchase of assets and assumption of liabilities of an FC that is in need of assistance, is in the process of liquidation or is being dissolved, and (4) act as a liquidator of a credit union, when appointed. To resolve FC issues, the CUDGC's actions may include cease and desist orders, supervision, administration, dissolution and/or liquidation, arrangement and dissolution, and compulsory amalgamation.

In Québec-Canada, the legal framework is notably composed of the Act Respecting the Regulation of the Financial Sector (RFS Act), the Act Respecting Financial Services Cooperatives (FSC Act) and the Deposit Institutions and Deposit Protection Act (DIDP Act), which are all administrated by the AMF. The AMF assumes the supervision, the resolution and the deposit insurance functions for the deposit-taking institutions operating in Québec (excluding banks, as defined by the Bank Act of Canada, which are under the CDIC's purview). The FSC Act is the legislation governing the self-regulated network of FCs formed by the UO and the member non-systemic FCs (credit unions or "caisses"), plus the IPS. Special supervisory and intervention powers are given to the UO and the IPS. Those powers were strengthened following the amendment to the legal framework of the financial sector by the Government of Québec, in June 2018. Indeed, the FSC Act now includes the formal recognition of the Cooperative Group and of the financial solidarity mechanism, applied via the IPS, and the requirement to establish a recovery plan for the Cooperative Group. Under the DIDP Act, the AMF has a wide range of powers and tools that could be used for resolution depending on the type of institution, including some in early intervention. Since June 2018, the DIDP Act now includes all resolution features aligned with the AMF's RA mandate. Therefore, in Québec-Canada, the resolution of FCs may be carried out at the financial Cooperative Group level (UO and its IPS) and/or at the integrated regulator level (AMF).

BOX 1: THE TWO LEVELS OF INTERVENTION (QUÉBEC-CANADA'S CASE)

In Québec-Canada, the financial Cooperative Group level could be viewed as the first line of defence, and the integrated regulator level as the second line of defence. Indeed, the special supervisory and intervention powers of the UO and the IPS allow issues to be internalised and minimise the risk of failure of a weak FC and the cost of intervention by the AMF. At the financial Cooperative Group level, the UO and its IPS jointly manage a mutual support scheme that implements and guarantees solidarity among members of the Cooperative Group (i.e. a cross-guarantee mechanism embedded into the financial Cooperative Group). The UO acts as treasurer/liquidity manager for the Cooperative Group, assesses the FCs (Monitoring Office), and acts as the temporary or provisional administrator or as the liquidator of an FC. For its part, the IPS's mission consists in (1) establishing and managing a security, liquidity or mutual assistance fund for FCs, (2) taking part in the FC network's capitalisation, (3) helping to pay for losses resulting from the liquidation of FCs, and (4) avoiding or reducing disbursements by the AMF under the DIDP Act. To FCs that are experiencing difficulties in improving their financial situation, the IPS may notably:

- make loans, grants and guarantees;
- acquire some or all of the assets of an FC;
- temporarily manage the affairs of the FC;
- act as the liquidator or sequestrator, and as the provisional administrator.

Over the past decades, hundreds of M&As have been carried out through the UO and the IPS, but even if the risk of failure of a weak FC is less likely, a major crisis involving the Cooperative Group is a risk that needs to be managed. Therefore, the AMF has a wide range of powers and tools under the DIDP Act that could be used for resolution depending on the type of institution (some in early intervention). The AMF assesses the recovery plan developed by the Cooperative Group and makes recommendations to improve it. The AMF also develops a resolution plan for the Cooperative Group.

For any deposit-taking institution, the AMF may notably:

- make advances of money and guarantees;
- acquire the assets of a deposit institution or any security issued by a deposit institution;
- constitute a legal person or a partnership to carry out the liquidation or winding-up of the assets acquired from a deposit institution;
- apply to the Superior Court for an order (1) to force the sale or amalgamation of a deposit institution, or (2) to order the appointment of a receiver (i.e. temporary administrator).

For the Cooperative Group, the DIDP Act provides for a chapter on the resolution process, including provisions for the:

- establishment of a resolution plan for the Cooperative Group specifying, in particular, the operations the AMF intends to implement in the event of failure of the institution;
- establishment of a resolution board to approve the resolution plan, order the implementation and closure of the resolution operations, and authorise any resolution operation that was not provided for in the plan;
- establishment of new powers: bail-in, bridge institution, temporary stays, etc.;
- amalgamation of all the FCs as well as the IPS belonging to the same cooperative group and have them continued as one Québec savings company (amalgamation/continuance);
- ability to carry out a winding-up of the Cooperative Group;
- establishment of a business corporation;
- adoption of specific regulations, which relate to the recapitalisation conversion, the indemnification and the financial contracts.

Brazil (FGCoop) is on its way to establishing a specific framework for FCs. A bill is in preparation to deal specifically with the resolution regimes which will define more detailed and specific information such as available powers and tools.

Some jurisdictions do not have a specific resolution framework for FCs, as resolution methods are applied in the same way for FCs as for banks, regardless of their legal form. This is the case for the DICJ (Japan), but also for European member respondents, namely Finland (FSA), Germany (BVR-ISG), and Spain (FGDEC). As in other European respondent jurisdictions, in Italy (FGDBCC), there is no special provision for FCs. The standalone FCs (i.e. BCCs) are not eligible for the resolution procedure, while the two cooperative banking groups to which the FCs are affiliated may be subject to this procedure since they are SIFIs under the SRB jurisdiction. The resolution strategy of these two groups and the IPS is consistent with the features of cooperative structure.¹⁷ Nevertheless, as in the case of Québec-Canada, the resolution of an FC in Italy could be carried out at the financial cooperative group level or at the DI level. Indeed, the apex companies of the cooperative banking groups (i.e. UOs) are entitled to provide support through a cross-guarantee mechanism, which could be viewed as the first line of defence, and the FGDBCC could also intervene following the provisions of the EU Directive 2014/49/EU on deposit guarantee schemes (DGSD), which could be viewed as the second line of defence.

BOX 2: EUROPEAN FRAMEWORK – THE BANK RECOVERY AND RESOLUTION DIRECTIVE 2014/59/EU

The European resolution framework has been significantly reformed starting from 2014 through the issuing of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms (BRRD), the Single Resolution Mechanism Regulation (EU) 806/2014 and the DGSD.

In brief, according to the EU recovery and resolution framework, the resolution procedure is applied to banks (including cooperative banks and may also be used for credit unions), which are declared as failing or likely to fail by the competent authority, if there is no reasonable prospect that alternative private sector measures (including measures of a private IPS) or supervisory action would prevent the failure of the bank within a reasonable timeframe, and if a resolution action is necessary in the public interest. In the presence of the first two conditions and when the public interest is not satisfied, the bank can be subject to a liquidation procedure, according to the national insolvency procedures. Different legal regimes in the EU countries may then imply different practices in dealing with the crisis of a bank at national level.

Within this context, the EU framework does not provide for specific requirements to resolve financial cooperatives while keeping the cooperative structure.

In Europe, an SRM (Regulation (EU) No 806/2014) has been introduced to ensure the orderly resolution of failing banks with minimal costs to taxpayers and to the real economy (the second Pillar of the Banking Union). The SRM consists of the SRB (the resolution authority for the Banking Union) and the national resolution authorities in Banking Union countries.¹⁸ The SRB is responsible for the Banking Union's common resolution fund (SRF), financed by the banking sector.

According to the BRRD, the Resolution Fund may intervene in the event of resolution of a bank, in support of the application of resolution tools (bail-in, sale of business to a third party, a bridge bank or an asset management vehicle).

According to the DGSD, deposit guarantee schemes intervene to reimburse depositors and contribute to financing the resolution of member banks, providing cash for the amount the covered deposits would be impacted, to absorb the losses of the bank in resolution in the case a bail-in is applied, or to cover the losses the covered depositors would have borne in the case of transfer of all or any assets, rights or liabilities to a third bank, to a bridge bank or to a special purpose entity for management of the assets.

¹⁷ The structure of the groups is based on the FCs (BCCs) owning the shares of the two holding parent companies (structured as joint-stock companies) that in turn control the FCs by means of a special coordination contract, also governing the cross-guarantee mechanism (so-called intra-group guarantee scheme). This guarantee scheme is meant to prevent the crisis of single institutions belonging to the group, through the intervention of the other institutions (which are intended to be more solid) providing support.

¹⁸ Banking Union countries are the Euro Area Member States, and Bulgaria and Croatia.

Moreover, Member States may allow a Deposit Guarantee Scheme (DGS) to use the available financial means for:

- Alternative measures (commonly known as preventive measures) in order to prevent the failure of a credit institution (art. 11, par. 3 DGSD). Under Article 11(3) DGSD, IPSs recognised as DGS carry out their main goal (i.e. avoiding the failure of their members) in financing preventive measures and may use DGS funds for this purpose. This financing is subject to a number of conditions, including provided that “the RA has not taken any resolution action” and “the costs of the measures do not exceed the costs of fulfilling the statutory or contractual mandate of the DGS”. Such measures shall not be applied where the competent authority, after consulting the RA, considers the conditions for resolution action to be met (Article 11(4) DGSD). Under Article 11(5) DGSD, if funds are used for preventive measures, the affiliated credit institutions shall immediately provide the DGS with the necessary means, where necessary in the form of extraordinary contributions, where (i) the need to reimburse depositors arises and the available financial means of the DGS amount to less than two-thirds of the target level; and (b) the available financial means fall below 25 % of the target level.
- Alternative measures, according to which the available financial means may also be used to finance measures to preserve the access of depositors to covered deposits, including transfer of assets and liabilities and deposit book transfer, in the context of national insolvency proceedings, provided that the costs borne by the DGS do not exceed the net amount of compensating covered depositors at the credit institution concerned (art. 11, par. 6 DGSD).

Among respondent jurisdictions, none has explicit legislative requirements to keep the cooperative structure once the FC is resolved. While not mandatory, in some jurisdictions, an effort is made to keep the FC structure by choosing a relevant resolution strategy such as in Jamaica (JCCUL). Others have extensive legislative powers to do so, namely AMF (Québec-Canada), CUDGC (Alberta-Canada) and Colombia (FOGACOO). In Italy (FGDBCC), even if few legislative powers allow the FC structure to be kept once resolved, in order to preserve the cooperative nature, an FC (i.e. BCC) under restructuring should be either merged with other FCs or supported to remain standalone. The apex companies of the cooperative banking groups (i.e. UOs) are entitled to provide such support through a cross-guarantee mechanism but the FGDBCC could also intervene following the legal provisions of art. 11, par. 3 and 11, par. 6 of the DGSD. In Germany (BVR-ISG), there is a legal requirement in the BRRD and in the German Recovery and Resolution law (“Sanierungs- und Abwicklungsgesetz (SAG)”) to change the legal form of a bank only as a measure of last resort if a necessary resolution instrument could otherwise not be applied (not limited to FCs, i.e. cooperative banks, but applicable also to public savings and other public sector banks). In Poland, according to special law for credit unions, if the ratio of own funds to the value of assets is below 1%, and the UOs refuse to grant financial help, the Polish Financial Supervision Authority may decide, at a first step, on the assumption of the weak credit union by another (healthy) credit union. The decision may be taken by the Polish Financial Supervision Authority unless the ratio of own funds to the value of the assets of the healthy credit union after the assumption would fall below a given level. In the absence of such a healthy credit union, the Polish Financial Supervision Authority, taking into account the need to protect financial market stability and the weak credit union, may decide on the assumption of the weak credit union by a domestic bank or credit institution, with their consent, or decide to liquidate the credit union.

5. OVERVIEW OF WAYS, TOOLS AND METHODS TO RESOLVE A FINANCIAL COOPERATIVE WHILE KEEPING THE COOPERATIVE STRUCTURE

5.1. AVAILABLE FUNDING OPTIONS FOR THE RESOLUTION OF FINANCIAL COOPERATIVES

There are different funding options available for the intervention in FCs in respondent jurisdictions. Some of the options can be used in early intervention while others are used in resolution.

In some jurisdictions, such as Italy (FGDBCC) and Québec-Canada (AMF), the cross-guarantee mechanism is embedded into the cooperative groups (i.e. the UO and its IPS jointly manage a mutual support scheme that implements and guarantees solidarity among members of the Cooperative Group) and the preventive measures of the IPSs support FCs in the event of an operating deficit or a situation that could lead to insolvency. In both Québec-Canada and Italy, this mechanism aims to avoid the resolution of a single FC by the DI (which has a resolution function). In these jurisdictions, if recovery and restructuring actions were not successful, the FGDBCC or the AMF would intervene (via their Deposit Insurance Funds (DIFs)). In Jamaica, available funding options for the resolution of FCs are provided by the self-regulatory UO, JCCUL, which manages their IPS, while the respective FCs of JCCUL can seek to increase the permanent shares each member of the FC is required to hold.¹⁹ An IPS also acts as a preventive measure in Spain (FGDEC) and Germany (BVR-ISG) for the rehabilitation of weak FCs, while resolution, strictly speaking, takes place by using legally determined resolution instruments, and in the case of the Euro Area, may include the use of funds from the Single Resolution Fund managed by the Single Resolution Authority. In the Euro Area, Member States may allow a DGS to use the available financial means for alternative measures (commonly known as preventive measures) to prevent the failure of a credit institution (including an FC) and may decide that the available financial means may also be used to finance measures to preserve the access of depositors to covered deposits, including transfer of assets and liabilities and deposit book transfer, in the context of national insolvency proceedings, provided that the costs borne by the DGS do not exceed the net amount of compensating covered depositors at the credit institution concerned.

Some jurisdictions have other sources of funding besides the DIF, such as ex post funding in case of crisis management (Japan (AFCSIC, DICJ)) or systemic financial crisis (Chinese Taipei (CDIC)), bonds issuance (Japan (DICJ), other forms of borrowing (Japan (AFCSIC, DICJ), Chinese Taipei (CDIC)), and a legislative government backstop if the DIF is insufficient (Alberta-Canada (CUDGC), Chinese Taipei (CDIC), Québec-Canada (AMF)). In Europe, the DGSD also expects alternative funding arrangements (bond issuing, borrowing, etc.) to be in place.

In some jurisdictions, DIs may use a large range of financial assistance tools: they may participate temporarily in the FC members' assets (Colombia (FOGACOOP)), acquire credit rights (Brazil (FGCoop)), make loans (Colombia (FOGACOOP) and Brazil (FGCoop)), make advances of money, with or without security, and guarantee the payment of debts (Québec-Canada (AMF)), acquire the assets (Colombia (FOGACOOP) and Québec-Canada (AMF)), make a deposit or guarantee a deposit made and acquire any security issued by the institution (Québec-Canada (AMF)), or provide a letter of credit and financial assistance (Brazil (FGCoop)). The latter can also make donations with financial and non-financial charges.

For FGA CONFIA (Costa Rica), the most recently established respondent DI, no funding is available for the purposes of resolution, but negotiations are underway with FCs.

¹⁹ This is subject to the membership rules of the respective credit union and a resolution vote by members at a special or annual general meeting.

5.2. PRIORITISED TOOLS FOR KEEPING THE COOPERATIVE STRUCTURE

5.2.1. In early intervention

In the context of an early intervention, jurisdictions have some prioritised tools for keeping the cooperative structure. We observed the following:

- Prompt corrective measures are a way of keeping the cooperative structure in some jurisdictions, as they are taken early in the intervention process before any resolution tools. In Chinese Taipei (CDIC), they are the prioritised way for regaining the health of FCs. In Guatemala (FGMICOOPE), early intervention comprises two steps: (1) require an action plan from FCs, and (2) implement external measures if problem persists, which consists in providing FCs with funds to correct or accelerate their recovery. If these early intervention measures do not solve the problem, FGMICOOPE finally implements definitive measures to give the FCs a controlled way out of the FGMICOOPE system, by following a least-cost solution. In Brazil (FGCoop), emphasis is put on monitoring FCs as a preventive tool and allowing the DI to take action at an early stage, in collaboration with other participants of the financial safety-net.
- M&A, involving the combination of a weak but still viable institution with a stronger one, is well used among respondent jurisdictions (six out of fifteen), and notably used when serious weaknesses are observed, necessitating early intervention:
 - In Jamaica (JCCUL), the technical assistance or other required assistance to stabilise an FC in financial distress is usually the first option. But if not successful/sufficient and the FC's operation appears heading for default, it can be placed under supervision/temporary management with the approval of the Registrar of the Department of Co-operatives and Friendly Societies. The aim at this stage is usually to merge the weak FC with a stronger and financially viable FC. Therefore, technical assistance and supervision (temporary management) followed by merger are the main intervention tools used.
 - In Germany (BVR-ISG), there are preventive measures of an IPS to prevent an institution from failing or being likely to fail, e.g. by restructuring or by the merger of two institutions. In any case, when applying these rehabilitation measures of the IPS, the cooperative legal form of the institutions remains unchanged.
 - In Italy (FGDBCC), the available tools for keeping the cooperative structure may consist of M&A operations between the defaulting FC (i.e. BCC) and a sound and sizeable FC. In the case of liquidation, a transfer of assets and liabilities to another FC may be carried out to preserve the access to deposits and the continuity of bank relationships. However, members of the liquidated FC are not transferred to the acquiring FC.
 - In Québec-Canada (AMF), over the past decades, hundreds of M&As have been carried out through the UO and its IPS, which are granted special supervisory and intervention powers by law. For members of the less viable FCs, those M&As allow them to continue doing business with a sound Cooperative Group that they know well. The UO and its IPS internalise issues and minimise the risk of failure of a weak FC and the cost of intervention by the AMF. Indeed, all those M&As have been carried out with no cost to the DIF.
 - In Colombia, FOGACOOP promotes the merger with another FC as a tool for resolving financial cooperatives, but this is a model that requires the agreement of the institutions involved and the supervisor's authorisation. Nevertheless, acting at the early intervention stage (i.e. before the liquidation) can be useful for keeping the cooperative structure, even if it is not a priority.
 - In Brazil, FGCoop requires a merger with another credit cooperative of the Brazilian National Credit System as a prerequisite for providing financial assistance to cooperatives at risk of discontinuity. However, there is no preferential way of providing it. When assessing the use of

a particular tool, FGCoop takes into account the economic-financial state and the causes of the risk of discontinuity. The financial assistance focuses on maintaining FGCoop's equity and may exceptionally consider the reputational risk of the cooperative system.

5.2.2. In resolution

In the context of a resolution, jurisdictions also have some prioritised tools for keeping the cooperative structure. We observed the following:

- P&As were used as the main tool in resolving FCs in the past to maintain financial order and protect the interests and rights of depositors (Chinese Taipei (CDIC)). The first option for the failing FCs in Alberta-Canada (CUDGC) had been to seek another FC for an arrangement or amalgamation (i.e. P&A). This has been a successful method for the Alberta FC system. From time to time, CUDGC provides indemnity agreements to facilitate an arrangement.
- A bridge institution can be established in the context of a resolution. For example, in Québec-Canada, the AMF can establish a bridge institution to assume the liabilities, in relation to deposits of money, of a deposit institution belonging to the Cooperative Group. The bridge institution can be established as an FC, but also as a Québec savings company or trust company. The AMF can also transfer the assets and liabilities of a legal person belonging to a cooperative group to any acquirer, which could be the AMF itself, a bridge institution or an asset management company.
- Financial assistance can be provided to some FCs in the resolution process in jurisdictions like Japan (AFCSIC, DICJ). In the case of AFCSIC, this results in the resolved FCs keeping their cooperative structure.

In some jurisdictions, keeping the cooperative nature after the resolution of an FC is not considered a priority (Costa Rica (FGA CONFIA)) nor a resolution objective (Germany (BVR-ISG)). In Japan, the resolution tools applied for FCs by the DICJ are the same as for banks. In Spain (FGDEC), none of the resolution tools guarantees keeping the cooperative structure, while Finland (FSA) and United Kingdom (FSCS) do not have any prioritised tools for keeping it. In Guatemala, FGMICOOPE implements definitive measures to give the FCs a controlled way out of the MICOOPE system, by following a least-cost solution. In the UK, to bail in a failing building society, the Bank of England (1) may convert the society into a company, or transfer all the property, rights and liabilities of the society to a company, and also (2) may cancel shares and membership rights of the society, and convert shares of the society into deposits of the successor company. A bail-in of a building society would result in demutualisation. In the UK, in addition to the bail-in tool, there are four other resolution tools, including the transfer to a private sector purchaser, the transfer to a bridge entity, the transfer to temporary public sector ownership, and the asset management vehicle tool, according to the SRR code of practice included in the Banking Act 2009 and updated in 2017. Likewise, in Spain, the same resolution tools listed for the UK are available under the BRRD, with the exception of the transfer to temporary public sector ownership.

The FC structure can also be kept in an indirect way through an intermediate involvement of a joint-stock company in the resolution process. The case of Banca di Romagna Cooperativa in Italy is interesting in this regard. In 2015, Banca di Romagna Cooperativa was submitted by the Bank of Italy to Compulsory Administrative Liquidation (LCA) and in that context the Italian DGS intervened to support the transfer of some assets and liabilities to another bank belonging to the same group (Banca Sviluppo). Banca Sviluppo is a joint-stock company, but interestingly those assets and liabilities have recently been transferred from that bank to three other FCs (Bodellini, 2020).

Conservatorship

The conservatorship (or temporary administration), whereby the DI or the UO/IPS takes over the affairs of the FC, rehabilitates it through a number of tools and ultimately seeks to return it to the control of the FC members is also used in some jurisdictions to keep the cooperative structure and to avoid a payout to depositors, notably in the United States and in Québec (Canada). Many of the early

intervention tools are applicable during a conservatorship and past practices involve a wide variety of activities including replacement of the management and governing body of the FC, technical assistance, purchasing of problem assets by a UO/IPS or other parties, recapitalisation, sales of part of the business, providing liquidity resources, etc. The end result of the conservatorship can be merger of the FC with another one, or if successful, rehabilitation of the FC and return to private control by the membership. Thus, conservatorship is another tool for the DI to resolve FCs while keeping the cooperative structure. This option seeks a least-cost alternative to a direct payout and provides actionable control of the affairs of the FC in cases where the problems are beyond the capabilities of the existing management team. In jurisdictions considering a conservatorship option, it is important that the authorising legislation provide an appropriate level of liability protection for the DI and the UO/IPS.

5.3. PAST RESOLUTION EXPERIENCES WHILE KEEPING THE COOPERATIVE STRUCTURE

Among the fifteen respondents, seven have cases of FC early intervention or resolution while keeping their cooperative structures,²⁰ namely Québec, Canada (AMF), Germany (BVR-ISG),²¹ Brazil (FGCoop), Italy (FGDBCC), Colombia (FOGACOO), United Kingdom (FSCS) and Jamaica (JCCUL).

5.3.1. Background

Overall, the reasons that lead to early intervention or resolution of FCs are notably related to shortcomings in management practices or poor governance, plus declining profitability (Québec-Canada (AMF), Jamaica (JCCUL)), but also to severe irregularities in administration and regulatory violations, in the context of apparent solidity, plus high single-name concentration (e.g. a few top clients holding over 50% of the total loans), deterioration in the technical and organisational structure, and increase in credit loss provisioning resulting in capital shortfall (Italy (FGDBCC)). Non-performing loans in the context of loss of confidence (Colombia (FOGACOO) or problem loans (commercial and residential property)²² following diversification into commercial lending and loans for social housing are also some of the reasons given (United Kingdom (FSCS)).

5.3.2. Possible resolution options, justifications/drivers and implementation

5.3.2.1 Purchase and Assumption and Merger and Acquisition: a few cases

Most case studies received present cases involving P&A and M&A. Contrary to P&A, M&A is often done at a time when the FC is weakened but has not yet failed and involves a change in the troubled FC's organisation and/or ownership (McGuire, 2012).

Among the four cases involving an M&A, three were carried out by a UO and/or IPS, as a preventive measure (Germany, Jamaica, Québec-Canada). The fourth was carried out at the resolution stage (Brazil).

- Germany's case (2011): Within the preventive measures of the private IPS, to avoid existing or imminent economic difficulties of member cooperative banks long before any non-compliance with prudential requirements, there had been a few cases in the past where the IPS had granted resources to a cooperative bank. In each case, this was done before prudential requirements had been violated. In some of these cases, mergers of institutions took place, which was the best way to carry out rehabilitation or restructuring measures.
- Jamaica's case (2013): The FC was initially placed under Temporary Management/Supervision by JCCUL and provided with management personnel and technical assistance aimed at restoring it to

²⁰ Annex 2 presents the case studies in more detail.

²¹ The experience of the BVR-ISG (Germany) is about recovery and rehabilitation of cooperative banks, not in the narrow meaning of "resolution". BVR-ISG (Germany) always keep their cooperative banks in business, sometimes within another cooperative bank after merger, and never shut them down.

²² In the UK, historically, the building society sector focused on deposits and mortgage loans for residential property, but Dunfermline Building Society (DBS) had diversified into commercial lending and loans for social housing.

viability. However, after periodic assessments it was determined that a merger with another FC that had a similar interest (e.g. similar common bond²³) and was financially viable was the best option and in the best interest of the members of this Parish FC as well as the credit union movement in general. The merger would provide continuity of service to its members without them losing their existing benefits associated with a mutual/FC. It would also allow members to become part of a stronger FC. These options were assessed to be less arduous, less costly and would cause the least dislocation/disruption in service to members.

- Québec-Canada's case (2012): The best option for the UO to deal with the FC's issues and to protect its members was to proceed to a merger with another FC that was also part of the network of the same Cooperative Group. Otherwise, the FC would fail, and the AMF would have to proceed to deposit reimbursement. A merger represented an adequate intervention option for maintaining access of members to services and for keeping, as much as possible, a strong feeling of belonging among the FC community, and for limiting the impact on the DIF.

Among the major implementation steps, the weak FC mandated the UO to look for a merger with another FC within the network. One FC was willing to merge, even if it did not share the same common bond. The merger was ratified at the Extraordinary General Meeting, but the effective date of the merger was set for a few months later. During those months, the situation of the weak FC deteriorated. The AMF received an official application for a merger authorisation, but also a complaint requesting a stay of merger. After dealing with the complaint, the AMF analysed the application, formulated its merger recommendation, and issued a deposit insurance authorisation.

- Brazil's case (2018-2019): To rely on the amount needed to cover accumulated losses, but also to have short and medium-term liquidity and to limit the impact on the operations of the cooperative at risk of discontinuity, FGCoop proceeded to a merger with another credit cooperative of the Brazilian National Credit System, with financial intermediation by FGCoop. The option for the type of financial assistance was loan operation (loan agreement) with the rate subsidised by FGCoop, plus the credit central's intervention. The intervention mitigated the risks associated with the cooperative activity. The process of providing financial assistance is being implemented, working together with the inspection bodies and institutions associated with FGCoop, sharing knowledge and good practices.

The fifth case involved P&A transactions.

- Italy's case (2010): The Special Administration (SA) procedure requested the FGDBCC to intervene in the perspective of liquidation, but it explored the possibility of resolving the Credito Cooperativo Fiorentino (CCF) through the involvement of other banks (orderly resolution), in coordination with the competent authorities and the FGDBCC. An expression of interest came from ChiantiBanca Credito Cooperativo for the acquisition of CCF's business (i.e. P&A).
 - ChiantiBanca Credito Cooperativo purchased CCF's assets and liabilities, with the exception of Non-Performing Loans (NPLs) and deferred tax assets (DTA).
 - The FGDBCC issued a guarantee covering ChiantiBanca Credito Cooperativo against the risk of deterioration of certain "unlikely to pay" purchased assets. The FGDBCC acquired CCF's NPLs and covered the negative balance between the transferred assets and liabilities resulting at the date of closure of the SA procedure. The FGDBCC also covered the liquidation costs.

²³ Most FCs are based on a common bond between members of the organisation. Typical common bonds include geographical region, profession, industry or employer group, religious, cultural or ethnic affiliation, etc.

BOX 3: IMPLEMENTING STEPS FOR MERGER BY AN UMBRELLA ORGANISATION (JAMAICA'S CASE)

In Jamaica, technical assistance and supervision/temporary management followed by merger are the main intervention tools used by JCCUL. For supervision, the Credit Union (CU) is normally written to and advised of the pending supervision including the reasons. However, if the situation is considered serious enough to warrant instant supervision, no prior warning is given. The CU Board may remain in place while the Supervision Team works with the Management Team to implement the required changes within an agreed timeline. However, where warranted, the Board and possibly some management personnel can be set aside, with the Supervision Team assuming the day-to-day responsibility for managing the CU. An Oversight Committee is also established to monitor the management and operations of the CU and make decisions as guided/referred by the General Manager. The JCCUL Board would be responsible for the review and approval of policy changes.

Where it is determined that a merger is the viable option, JCCUL holds a Special General Meeting (SGM) with the members of the failing CU to update them on the financial status of the CU and present the options/merger recommendation. The members are required to give their approval (vote) to allow JCCUL (as the temporary manager/supervisor) to administer the process to select a merger partner. Interested CUs are invited by JCCUL to submit a merger proposal via a "Request for Proposal (RFP)" document. An assessment of the proposal against the predetermined conditions (listed in the table below) is conducted by a JCCUL In-house Selection Committee to shortlist CUs (usually three). The shortlisted CUs are required to make a presentation to the Stabilisation Committee and possibly some member representatives from the merging/failing CU. Following selection by the Stabilisation Committee, a recommendation of the selected CU is made to the JCCUL Board. Once ratified by the JCCUL Board, the shortlisted CUs are advised of the outcome.

Town Hall meetings are held to update members on the outcome of the merger selection process, present the potential merger partner and sensitise members about the merger process going forward.

A merger resolution is required to be presented to both the members of the failing CU and the members of the selected CU merger partner at an AGM or SGM for their approval before the merger can be effective. Final approval of the merger resolution by the Registrar of Co-operatives is also required following both CU meetings and will include a date by which the merger must be effective.

At least two committees, a Merger Oversight Committee and a Merger Working Committee, are established to implement the merger plan. Where necessary, a capital injection is made to the failing/merging CU from the Stabilisation Fund to cover any shortfall in the failed CU's assets versus liabilities. This is to ensure that at the merger date, each member is transferred (merged) with the full value of their savings/deposits held in the failed CU.

Criteria to select the merger partner FC	Score
1. Potential for enhanced service to members and potential members	20%
2. Ease of integration of IT systems	10%
3. Synergies from the merger	25%
4. Capital adequacy and financial plan including assistance from the Stabilisation Fund	25%
5. Compatibility of the merger candidates	10%
6. Comprehensiveness of the merger plan	10%
TOTAL	100%

5.3.2.2 Takeover by the supervisor, Financial support and Transfers of part of the business

The others two cases present a takeover by the supervisor followed by financial support (Colombia), and a transfer of part of the FC to another cooperative and to a bridge bank, plus a bank administration procedure (the United Kingdom).

- Colombia's case (2015): Coopetrol, a cooperative formed by workers, ex-workers and suppliers of Ecopetrol, was taken over and administered by the supervisory body and a special agent designated by FOGACOOOP. FOGACOOOP supported the operations with a direct loan and a 180-day loan purchase agreement. In the jurisdiction, this tool is considered one of the best for solving financial problems when there is a context of loss of confidence.
- The United Kingdom's case (2009): The competitive sale process for Dunfermline Building Society (DBS)'s retail and wholesale deposits, branches, head office and originated residential mortgages was conducted by the Bank of England under the Special Resolution Regime provisions of the Banking Act 2009. Four bids were received. The resolution involved:
 - Transfer of part of the bank to another cooperative: The retail and wholesale deposits, branches, head office and residential mortgages were transferred to Nationwide Building Society, the UK's largest building society. This part of the business was therefore transferred to another cooperative body and depositors were thus retained within a member-owned organisation.
 - Transfer to a bridge bank: The social housing loans were transferred temporarily to a bridge bank owned by the Bank of England (Bridge Bank Limited). After a few months, Nationwide Building Society had been the preferred bidder for the social housing loans and related deposits from housing associations.
 - Bank administration procedure: DBS's remaining business, mainly lower-quality loans (commercial loans, acquired residential mortgages, subordinated debt and most treasury assets) were put into the Building Society Special Administration Process where they were managed by KPMG as the administrator. The bank administration procedure is the method for use where there has been a partial transfer of business from a failing institution.

As part of the deal, the UK Government transferred an amount of public funds (GBP 1.6 billion) to Nationwide Building Society, which took an amount of DBS's deposits (GBP 2.35 billion) in return for absorbing GBP 1 billion of its prime residential mortgages. The transfer was made because the assets that Nationwide Building Society took on were worth GBP 1.6 billion less than the liabilities. However, the GBP 1.6 billion cost was split between the industry-funded FSCS and the taxpayer. The FSCS contributed over GBP 500 million calculated against a cap of the counterfactual net cost of payout less recovery.²⁴

5.3.3. Challenges in resolution

Challenges differ among case studies as they depend on how the FCs were resolved.

For early intervention or resolution of an FC using M&A and P&A, the main challenges and impediments encountered were the following:

- Dealing with the lack of timely, complete and relevant information and determining the accuracy of the financial statements (Jamaica's case).

²⁴ This is what the net cost of payout less recovery would have been if the institution had failed and the deposits had been paid out.

- Getting directors and other volunteers, staff and members and the FC's representatives to understand, accept and agree on the financial status of the FC and on the necessity to proceed to the resolution (Jamaica's case).
- Facing unplanned costs for carrying out the resolution (Jamaica's case).
- Completing the required actions within the given timelines to stem further financial loss (Jamaica's case).
- Dealing with a complaint which alleged errors in the merger proceedings during the Extraordinary General Meeting approving the merger by absorption of the weak FC by the interested FC, and requested the suspension of the merger procedure. In reality, the complaint focused more on desired post-merger operating procedures, such as the preservation of the FC's name and the offer of services in the same language as before the merger (which is different from Canada's two official languages: French and English). All the integrated regulator's divisions involved in this merger case analysed the documentation and concluded that there were no irregularities that could undermine the merger (Québec-Canada's case).
- Considering the particularity of each case of financial assistance, creating an ideal initial model of financial assistance that meets the needs of cooperatives and preserves the financial structure indices required by government agencies, while the DI has no experience of doing so because it is a new power (Brazil's case).

For the resolution of an FC through takeover by the supervisor, financial support and transfers of part of the business, the main challenges and impediments encountered were the following:

- Dealing with the complexity of the competitive procedure for the sale of business (Italy's case).
- Assuring and/or regaining the confidence of customers and depositors at the defaulting FC during the procedure (Italy's case and Colombia's case).
- Deploying the procedure under a very strict timeline (i.e. authorisation by the Bank of Italy, Decree by the Ministry of Finance, appointment of the Receiver, and notary contractual arrangements) (Italy's case).
- Dealing with an error concerning the order of transfer of part of the business which resulted in some of the commercial property portfolio being transferred to Nationwide Building Society. This error, discovered by an Audit, Tax and Advisory services firm and corrected by a statutory instrument, occurred because resolution actions were executed quickly (over a weekend) and also because a new legislation was being used for the first time. Nationwide Building Society admitted that due diligence had not been as comprehensive as might have been the case if the transfer had not taken place over a weekend. This shows that the power to correct errors is important, in case resolution decisions need to be made urgently (United Kingdom's case).
- Conducting a valuation of the DI's contribution for the resolution of the FC (by an independent valuer) and requesting the valuer to reconsider the determinations of its report (by the DI) (United Kingdom's case).

5.3.4. Other resolution features

Depending on the jurisdiction, different tools have been used for early intervention and resolution of FCs, with different durations and different costs for the DI. In Jamaica's case, the resolution process, from Temporary Manager/Supervision to the merger by JCCUL lasted approximately three years, but the merger process, strictly speaking, took approximately eight months. In Germany's case, the IPS guaranteed an initial amount in 2011, followed by another in 2012, notably for additional guarantees and for restructuring measures, such as closure of branches, reduction of employees, etc. In Québec-Canada's case, the duration of the merger was longer than usual due to the complaint, so the effective

date of the merger was delayed but not for too long (a few months only). As this merger was done by the UO, within the FC network of the Cooperative Group, the cost was fully supported by the UO and FCs of the network, at no cost to the DIF maintained by the AMF. In Brazil's case, the process is still underway, but so far it has been difficult to reach an agreement among all the participants involved in the process, which is slowing the process down.

In the Colombian case, the takeover and management by the supervisory body and a special agent designated by FOGACOOP has been successful. The FC achieved the forecast financial, operational and social targets, and returned to its sustainable path.

In the United Kingdom's case, the resolution process started in March 2009, with the exercise of the stabilisation powers by the Bank of England, which comprised the transfer of part of the bank to another cooperative and part to a bridge bank, and the activation of the bank administration procedure by the Tripartite Authorities (i.e. the Bank of England, the Financial Services Authority and HM Treasury). After making payments on account to HM Treasury, the FSCS paid the final due balance on March 2018, thereby discharging in full its liabilities to HM Treasury for the DBS resolution.

5.3.5. Evaluations, observations and/or lessons learned

From those cases involving early intervention and resolution of FCs, the majority of jurisdictions learned lessons which could be useful for other DIs.

Interventions in a weak/failing FC may raise particular issues, notably cultural issues (such as common bond, values), political issues (such as rural footprint, democratic decision-making process), as well as operational issues (size, systems, resources, etc.). It is in the interest of DIs to detect early and manage those particular issues, especially as at the time of resolution, DIs often face a degraded economic environment which may make the rescue of FCs difficult. This fact highlights the importance of having a framework that provides for early detection and timely intervention. In the jurisdictions where there are UOs and IPSs, these particular issues can be internalised within those structures as they take action early with the deployment of preventive measures to avoid existing or imminent economic difficulties of FCs, long before any non-compliance with prudential requirements. And if they do not act, the DI has the powers to intervene at an early stage. Maintaining an effective collaboration between the UO and the DI/ is also part of the key success factors mentioned. As highlighted by BVR-ISG (Germany), preventive measures are far more effective than any kind of resolution instruments. M&As are generally part of these preventive measures. In certain jurisdictions, such as Germany (BVR-ISG) and Québec-Canada (AMF), M&As are the best way to conduct rehabilitation or restructuring measures of weak FCs, while minimising the risk and the cost of intervention to the DI.

By experience, Jamaica (JCCUL) noted that a timely intervention may reduce the fallout of the FC's financial situation (usually already weakened), the cost of the intervention and the time taken to complete the resolution process, as well as the level of loss of member confidence. Having an effective planning and structured implementation are crucial for the success of a resolution. Key stakeholder participation, along with clear and consistent communication, are critical to both the planning and execution of the plans.

Following the global financial crisis, many governments enhanced their legislative frameworks by granting new powers to DIs. Carrying out the resolution of an FC in a context of new legislative frameworks may be challenging for DIs. However, since the introduction of those frameworks, there have been few cases of resolution in most jurisdictions. For example, in the UK, the DBS's resolution case in 2009 remains the only deposit-taking institution to have been resolved under the SRR. This highlights the importance for DIs to regularly conduct simulations to get experience and be better prepared in the event of crises.

In many jurisdictions, legislative enhancements have notably comprised the adoption of a range of regulatory requirements, including larger capital buffers and liquidity requirements, which should ensure deposit-taking institutions have more capacity to endure shocks. The introduction of recovery and resolution planning has also focused both deposit-taking institutions (particularly SIFIs) and

regulatory authorities on preparing for recovery, and in the worst case, resolution. As highlighted by the UK, deposit-taking institutions are also made aware of the likely resolution tool which would be used, were they to fail in enabling the DI to have effective plans in place in advance of any failure.

In Colombia, the weakness of the governance system resulting in financial issues which led to the FC resolution in 2015 has been identified in other FCs in recent years. Consequently, to reduce the risk of default cases among FCs, government bodies (Ministry of Economy, Supervisor and FOGACOOOP as risk minimiser), together with the World Bank, worked on a normative project concerning Government cooperative principles, which became mandatory. Following the implementation period that began in May 2019, it is expected that the cooperative sector will adopt sound and prudent management practices, so that default cases in the sector will decrease.

5.4. RELATED ONGOING DISCUSSION/ANALYSIS WITHIN JURISDICTIONS

There are a few ongoing discussions or analyses within respondent jurisdictions concerning the resolution of FCs while keeping the cooperative structure. In Finland, Jamaica and Québec-Canada, these are related to new legislative frameworks pertaining to the resolution of FCs or new regulations.

- In Finland, in future, the FSA will establish whether BRRD II (i.e. Directive (EU) 2019/879, which is an amendment of Directive 2014/59/EU) provides new tools for resolving an FC while keeping its cooperative structure.
- In Jamaica, legislation is to be tabled to bring credit unions under the regulatory ambit of the Central Bank/Bank of Jamaica with subsequent admission to the Deposit Insurance Scheme. Additionally, the legal and operating framework for an SRR for all regulated financial institutions in Jamaica is being developed. The SRR will be applicable to FCs and will incorporate any necessary provisions to address the specific issues relevant to resolving FCs.
- In Québec-Canada, during the financial sector framework legal review (Bill 141), the AMF worked with the Ministry of Finance of Québec, notably regarding amendments to different laws relating to FCs to give the AMF the resolution powers needed to operationalise the resolution of a D-SIFI, notably the execution of a bail-in regime. Consequently, regulations on the bail-in tool were drafted by the AMF. Those regulations came into force on 31 March 2019.
- In Brazil, the law regulating the financial sector is being revised to allow the Fund, FGCoop, to provide direct capital injections when financial cooperatives with a high probability of liquidation are merged with other FCs. In those cases, after a set period, the funds will return to FGCoop through the proceeds obtained by FCs.

For some jurisdictions with FCs designated as D-SIFIs, recovery and resolution planning for those D-SIFIs is at a mature stage or underway. For example,

- In Québec (Canada), multiple cycles of a recovery plan prepared by the jurisdiction's D-SIFI (started in 2014) and a resolution plan prepared by the AMF (started in 2015) have been completed. Although the D-SIFI is currently very strong, the resolution plan specifies the operations the AMF intends to implement in order to ensure the maintenance of critical functions including deposit-taking in the event of failure of the Cooperative Group and without recourse to public funds.
- In Alberta (Canada), the CUDGC is in the early stages of working with its two largest FCs, both designated provincial SIFIs, in developing recovery and resolution plans. The CUDGC has also been incrementally working on its contingency planning for the credit union system.

6. FINAL REMARKS

This paper has presented some ways to resolve FCs (especially non-systemic ones) while keeping the cooperative structure. Providing guidance on effective methods to resolve FCs is a major contribution to the main objective of financial stability. In some jurisdictions, the preservation of the cooperative structure may be desirable as these financial institutions often serve specific segments of the economy including small and medium-sized businesses and in some cases are the only financial institution in remote or sparsely populated areas. FCs also bring diversity to financial services, foster a more competitive banking industry, and contribute to the policy goal of financial inclusion in some jurisdictions for underserved or unserved communities.

The data for the study come from case studies completed by DIs and UOs/IPs from different regions of the world, both IADI members and non-members. Fifteen case studies were received between March and June 2019, including seven about actual early interventions or resolutions of FCs in recent years.

Results show that no respondent jurisdiction is required by law to keep the cooperative structure of an FC after resolution. However, in many jurisdictions, authorities try as far as possible to preserve the cooperative structure of FCs after their intervention. The analysis also shows that although DIs are the ultimate authorities mandated to resolve FCs, FC industry-run UOs/IPs, where available, can play an important role in early intervention and resolution of FCs while keeping the cooperative structure of those FCs, notably by merging weak or troubled FCs with stronger ones within the UOs/IPs, especially at early intervention stages. It appears that M&As (at the early intervention stage) and P&As (at the resolution stage) with other FCs are the preferred tools by DIs and UOs/IPs to keep the cooperative structure of the FC after early intervention or resolution, where possible.

It is important to note that the intention to keep the cooperative structure of an FC after intervention, though desirable in many cases, should not be at the expense of financial stability, depositor protection or taxpayer exposure to losses. These public policy objectives should take precedence over the objective of keeping the cooperative structure. The latter objective could, nevertheless, be considered once those public policy objectives have been achieved, depending on the importance of FCs in the jurisdiction.

There are cases where troubled FCs are large or even considered systemic in their jurisdictions. In such cases, tools such as M&As or P&As with an FC may not be a feasible option as they would require finding an even larger FC, which is not always possible. To be able to deal with such cases should they arise, DIs with systemic FCs under their jurisdiction should consider developing resolution frameworks that allow for the use of resolution tools such as bail-in, if such frameworks are not already in place.

Based on the results of the analysis conducted using case studies, the following guidance points are provided for consideration in the resolution process of FCs, especially non-systemic ones, when members, assets and liabilities are intended to be kept in the financial cooperative system.

Some of these guidance points are general to all jurisdictions with FCs, while others are specific to jurisdictions where FCs unite under or collaborate with UOs and/or where IPs are available.

Some prerequisites are important for the implementation of these guidance points. For example, some or all of the guidance points may not be applicable to certain DIs that deal with FCs, depending on the mandate of the DI (i.e. DI with a resolution function and/or a supervisory function), the structure of the financial sector, the respective roles of various financial safety-net participants, etc.

Guidance for FC DIs, regardless of the presence (or absence) of a UO/IPS (when the cooperative structure is intended to be kept)

1. To increase the chances of keeping the cooperative structure, DIs with extensive responsibilities, such as preventive action and risk minimisation/management should have a robust framework for an early detection and timely intervention for FCs, unless such powers are assigned to a UO/IPS or supervisory authority. Such frameworks may help to avoid the failure of an FC or help to find a way to merge it with another FC before failure, thereby keeping the cooperative structure. Early detection and timely intervention could also prevent the erosion of customer and depositor confidence in the financial cooperative sector. (Reference Sections 5.3.3 and 5.3.5)
2. FC DIs should participate in regular contingency planning and simulation exercises based on a wide range of scenarios with different particularities. This is especially important for jurisdictions that have to deal with new powers or where few FCs have failed. Lessons learned during simulation exercises could help DIs prepare for quick decision-making and may compensate for lack of experience. (Reference Sections 5.3.3, 5.3.5 and IADI Core Principle 6 - Deposit insurer's role in contingency planning and crisis management)

Guidance for FC DIs in the presence of a UO/IPS (when the cooperative structure is intended to be kept)

3. In the case of the coexistence of DIs and UOs/IPSs, objectives, mandates and powers of each organisation should be clearly defined in law, regulation or agreements (such as Memoranda of Understanding). (Reference Section 4 and IADI Core Principle 2 – Mandate and Powers)
 - Legislation, regulation or arrangements within the UO or IPS could give sufficient intervention powers to those UOs/IPSs to enable them to deal with issues faced by a weak FC at an early stage or merge it with a stronger FC. Those powers could allow issues to be internalised, minimise the risk of failure of a weak FC and reduce the cost to the DI. (Reference Section 4 and 5.3.5)
4. In jurisdictions where UOs/IPSs can be considered as a first line of defence and the DI as the second line of defence, it is important that the financial strength of UOs/IPSs, and their actions regarding a specific FC, be monitored by the relevant authority. DIs with a resolution function and a supervisory function should be proactive in dealing with emerging weaknesses in UOs/IPSs, including having an internal contingency plan in place to determine in advance how those DIs might respond in the event that UOs/IPSs are no longer able to serve as the first line of defence to protect depositors. (Reference Section 4 and IADI Core Principle 6 - Deposit insurer's role in contingency planning and crisis management)

Notwithstanding the powers of UOs/IPSs, those DIs should have the power to intervene when necessary, for example when the UOs/IPSs do not take action in a timely and appropriate manner while there is an increasing risk on the cooperative system or on financial stability. (Reference Sections 4 and 5.1)

5. In jurisdictions where the powers of the DI and/or the UO/IPS allow it, P&A (including M&A) with a strong FC could be considered among the preferred strategies to deal with a troubled FC when the cooperative structure is intended to be kept. (Reference Section 5.2.1)
 - In jurisdictions where UOs/IPSs are available and have the necessary authority and responsibility, it may be desirable for the DI to allow the UO/IPS to work towards facilitating M&As between troubled FCs and healthy FCs before direct intervention by the DI. (Reference Section 5.2.1)

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8. ANNEXES

ANNEX 1: LIST OF THE RIFCTC MEMBERS

	Jurisdiction	Name	Organisation
1	Québec (Canada)	Julien Reid, <i>Chairperson</i>	Autorité des Marchés Financiers
2	Barbados	Justice W. LeRoy Inniss	Barbados Deposit Insurance Corporation
3	Brazil	Cláudio Luis Medeiros Weber	Cooperative Credit Guarantee Fund
4	British Columbia (Canada)	Antonia Prlic	BC Financial Services Authority
5	Chinese Taipei	Margaret Chuang	Central Deposit Insurance Corporation
6	Colombia	Adriana McAllister Braidy	Fondo de Garantías de Entidades Cooperativas
7	Czech Republic	Martin Hlavnicka	Financial Market Guarantee System
8	Germany	Dr Ralf Benna	National Association of German Cooperative Banks
9	Ghana	Kwesi Attobrah (from October 2021) Ignatius Martin Kojo Wilson (from July 2019 to September 2021)	Ghana Deposit Protection Corporation
10	India	Amulia Chenduluru (from October 2019)	Deposit Insurance and Credit Guarantee Corporation
11	Iran	Mohammad Talebi	Islamic Republic of Iran Deposit Guarantee Fund
12	Italy	Gianluca Grasso (from January 2021) Giuseppe Boccuzzi (until December 2020)	Fondo Interbancario di Tutela dei Depositi
13	Jamaica	Sherene Lewis Bailey	Jamaica Deposit Insurance Corporation
14	Japan	Yuichi Fujimura	Deposit Insurance Corporation of Japan
15	Kenya	Mohamed Ahmed Mohamud	Kenya Deposit Insurance Corporation
16	Poland	Joanna Smolarek	Bank Guarantee Fund
17	Trinidad and Tobago	Noel Nunes	Deposit Insurance Corporation
18	Ukraine	Viktoriia Stepanets (from February 2021) Nataliia Lapaieva (until January 2021)	Deposit Guarantee Fund
19	United Kingdom	Karen Gibbons	Financial Services Compensation Scheme
20	United States	Mike Hanson (from September 2019)	Massachusetts Credit Union Share Insurance Corporation
21		Bert Van Roosebeke (from March 2021) and Ryan Defina (from November 2020) Kumudini Hajra (until May 2020)	IADI Secretariat Research Unit

ANNEX 2: PAST RESOLUTION EXPERIENCES (SUMMARY)

Brazil's case (2018-2019)

Since receiving authorisation to provide financial assistance operations, FGCoop has changed the ways it provides resources. Currently it has three well-defined forms of contribution:

- 1) Loan directly to incorporating FC;
- 2) Loan through credit central or confederation;
- 3) Transfer of funds based on the apportionment of accumulated losses.

The merger (resolution) took place at an opportune time and therefore before the settlement was declared by the Central Bank (1 September 2018). Due to difficulties in obtaining reliable financial information to assess the amount needed for financial assistance, special audit work was required to obtain solid data. These are some key data:

- Net financial result: (USD 1.4 million);
- Total amount of deposits: USD 5.9 million;
- Amount of insured deposits: USD 4.2 million;
- Volume of the loan portfolio: USD 2.9 million;
- Share of non-performing loans in the loan portfolio: USD 1.06 million;
- Number of branches: 3;
- Number of employees: 1-50;
- Number of members: 490;
- State: São Paulo;
- Segment: Health professionals and plan operators;
- Incorporator: Cooperative of doctors from another state.

Possible resolution options and justifications/drivers

The reversal of shareholders' equity was the determining factor for the merger, together with FGCoop's financial intermediation. In addition to the amount required to cover accumulated losses, there was a need to access liquidity in the short and medium term and to limit the impact on the operations of the merged cooperative.

The type of financial assistance operation that presented the best resolution for the case in question was the contribution of resources equivalent to the accumulated losses. However, as a mechanism to effect the reversal of losses had not been established, a mutual credit operation was contracted with the cooperative, at a subsidised interest rate, to provide additional revenue over the term of the transaction.

Implementation of the resolution process

With the growing accumulation of assets and the non-utilisation of the amount available to cover deposits, FGCoop decided to implement the process of financial assistance to cooperatives at risk of discontinuity, mitigating the risks associated with cooperative activity and incorporating a better financial cooperative and management structure for the business (governance).

The process of providing financial assistance was implemented, through joint work with the Central Bank, the supervisory area, and the institutions associated with FGCoop, sharing knowledge and good practices. Since its implementation, the process has undergone changes in both internal rules and form, with an emphasis on the establishment of standardised conditions for mutual credit operations, including preference for lending through credit central or confederation, and the establishment of a new form of contribution, the apportionment of losses with return through future surpluses earned by the incorporated associates.

Challenges

With the recent authorisation to provide financial assistance, and the particularity of each case of financial assistance, one of the main challenges was to create an ideal initial model of financial assistance that meets the needs of FCs, while preserving the structural financial ratios required by government agencies.

Another challenge is the timing of the resolution and convincing the managers of the cooperative that is at risk of discontinuity, maintaining members in the segment, and not damaging the image of the cooperative movement.

Conclusion of the case

The execution of the financial assistance operations was very assertive and fulfilled its main objectives of protecting the members, preserving the resources to cover deposits, mitigating the negative impacts on the member FCs and, indirectly, guaranteeing the totality of the depositors' resources.

The process brought gains for all those involved: the incorporated cooperative's financial losses were covered and it was able to participate in a very well-structured organisation; the incorporating cooperative gained a foothold in an area in which it previously did not operate, and was perceived as a "saviour" of the troubled institution.

In general, the existing means for solving FCs in difficulty have shown good results in the context of financial security in FCs.

Evaluation, observations and/or lessons learned

The entire resolution process demonstrates that time is needed for the tool to mature internally and externally but, with practice and real cases, the structure, rules and essence of assistance is taking shape and consolidating as a concept in the minds of FC managers.

Another lesson learned is the need for transparency and the establishment of clear rules and minimum standards, with limited exceptions, in order to have a timely and agile resolution.

Detection as early as possible and the exchange of information with the protection network levels is very important. The establishment of cooperation terms or agreements helps to improve the fluidity of information transfer.

Colombia's case (2015)

Coopetrol is a cooperative created in 1953 by workers, ex-workers and suppliers of Ecopetrol. In February 2015, it was taken over and administered by the Supervisor (Superintendencia de la Economía Solidaria), and FOGACOOP supported the operations with a direct loan. The intervention ended after 30 months.

Possible resolution options and justifications/drivers

This cooperative's triggers were governance structure, the fact that in the medium term it had made up to 27% non-performing loans, and the consequent loss of confidence among stakeholders. The entity was taken over to be managed by the supervisory body and a special agent designated by FOGACOOP. The resolution included a 180-day loan purchase agreement. During the 180-day period, a direct loan was granted. This tool is considered one of the best for solving financial problems when there is a context of loss of confidence.

As a risk minimiser, FOGACOOP had to do a least-cost evaluation between rescue operations and payout of insured deposits.

Implementation of the resolution process

In Colombia, the law allows the possibility to take over one entity to do diagnostic evaluation if there is evidence of economic sustainability and a forecast medium-term path. Consequently, the risk minimiser FOGACOOOP coordinates the rescue operation and intermediate targets with the supervisory body and its own appointed special agent, and keeps track of progress.

Challenges

Following administration and with the institutional back-up of FOGACOOOP, the cooperative had to develop an effective communication plan to restore confidence in its operations, formalise the negotiations with financial institutions and get promises of support from the main depositors, in accordance with the viability plan developed.

Conclusion of the case

The cooperative Coopetrol, with the help of FOGACOOOP (with a risk minimiser mandate), achieved the forecast financial, operational and social targets, returned to its sustainable path, and repurchased the rescue operation. The total cost of the resolution was COP 6 billion at the annual effective rate of 8% over six months.

Evaluation, observations and/or lessons learned

The cooperative Coopetrol had displayed financial weaknesses deriving from its governance system during several periods. This problem has been identified in other cooperatives in recent years. The Ministry of Economy, the Supervisor, FOGACOOOP as risk minimiser and the World Bank worked on a normative project concerning Government cooperative principles, which was released in November 2018 and the implementation period began in May 2019. This normative frame is mandatory, and it is expected that the cooperative sector will learn good practices for decision-making and the number of defaults will decrease.

Germany's case (2011)

In the history of the German cooperative banking sector there had been no kind of resolution of a cooperative bank according to the legally-based resolution framework or even a liquidation under normal insolvency law. Therefore, Germany's case study refers to a merger supported by the IPS (BVR Sicherungseinrichtung), but not by the BVR-ISG. This relevant real-life case study started in the year 2011.

These are some key data:

- Number of branches: 18;
- Number of employees: 125;
- Customers/Clients: Ca. 32,500 / ca. 30%, (inhabitants in micro-region: 108,000);
- Total amount of deposits: EUR 460 million (eligible deposits);
- Amount of insured deposits: 100%;
- In the specific relevant regional part of Germany (micro-market share): deposits 16,6% / loans 17.7%;
- Volume of the loan portfolio: EUR 486 million.

Possible resolution options and justifications/drivers

In the context of the preventive measures of the private IPS to avoid existing or imminent economic difficulties of member banks long before any non-compliance with prudential requirements, there had been few cases in the past where the IPS had granted funds to a cooperative bank. This was done in any case before prudential requirements had been violated. In some of these cases, mergers were carried out as the best way to conduct rehabilitation or restructuring measures.

Implementation of the resolution process

No details given.

Challenges

No details given.

Conclusion of the case

Guarantee of the IPS was EUR 27.6 million in 2011 plus EUR 34.2 million in 2012, notably for additional guarantees and for restructuring measures, such as the closing of branches, reduction of employees, etc.

Evaluation, observations and/or lessons learned

Preventive measures are far more effective than any kind of resolution instruments.

Italy's case (2010)

In Italy, the FGDBCC resolved the Credito Cooperativo Fiorentino (CCF). Despite its apparent solidity, CCF was put under the Special Administration (SA) procedure on 27 July 2010 for “severe irregularities in administration and regulatory violations” – art. 70, 1, letter a) of the Italian banking law (TUB).

The SA financial report (2010 - March 2012) showed:

- high exposure to real estate sector: 52.1% of total loans as at 31 July 2010;
- high single-name concentration: top 50 clients represented 54.6% of total loans as at 31 July 2010;
- severe administration shortfalls;
- marked deterioration in the technical and organisational structure;
- increase of credit provisioning resulting in capital shortfall at March 2012.

Possible resolution options and justifications/drivers

On 9 February 2012, the SA procedure requested the FGDBCC intervene pursuant to the provisions of FGDBCC's Statute, in the case of CCF's liquidation (LCA), as provided for under Italian banking law (TUB). The SA procedure explored the possibility of resolving the crisis through the involvement of other banks (orderly resolution), in coordination with the competent authorities and the FGDBCC. An expression of interest came from “ChiantiBanca Credito Cooperativo”.

Implementation of the resolution process

ChiantiBanca Credito Cooperativo formulated an offer for the acquisition of CCF's business. The operation entailed the following measures:

- ChiantiBanca Credito Cooperativo purchased CCF's assets and liabilities, with the exception of NPLs and deferred tax assets (DTA);
- The FGDBCC issued a guarantee covering ChiantiBanca Credito Cooperativo against the risk of deterioration of certain “unlikely to pay” purchased assets;
- The FGDBCC acquired CCF's NPLs and covered 1) the negative balance between the transferred assets and liabilities resulting at the date of closure of the SA procedure and 2) the liquidation costs of the Bank;
- The FGDBCC reimbursed ChiantiBanca for a set amount of costs related to the operation.

On 27 March 2012, CCF was placed under Compulsory Administrative Liquidation (LCA). The Bank of Italy authorised the sale of CCF’s business to ChiantiBanca Credito Cooperativo and the intervention of the FGDBCC, notably to proceed to the transfer of assets and liabilities.

Challenges

The main challenges can be summarised as follows:

- Complexity of the competitive procedure for the sale of business;
- Assuring the confidence of customers and depositors at the defaulting BCC (and in general) during the procedure;
- Very strict timing for the deployment of the procedure (authorisation by the Bank of Italy, decree by the Ministry of Finance, appointment of the Receiver, notary contractual arrangements).

Conclusion of the case

The FGDBCC granted the intervention to CCF under the following terms:

CCF intervention	€/million
a. Negative balance resulting at the date of closure of the SA procedure (reimbursement to ChiantiBanca Credito Cooperativo), including liquidation costs	15.0
b. DTAs (non-transferable tax assets)	24.9
c. Purchase of CCF’s non-performing loans (net book value)	78.38
d. Guarantees issued to ChiantiBanca Credito Cooperativo	39.1
e. Costs reimbursed to ChiantiBanca Credito Cooperativo	0.5

Evaluation, observations and/or lessons learned

No details given

Italy’s case II (2015)

(Provided during the IADI Advisory Panel Review in June 2021 by Dr Marco Bodellini, Associate Lecturer in Banking and Financial Law, Queen Mary University, London, and part of the IADI Advisory Panel)

In 2015, Banca di Romagna Cooperativa was submitted by the Bank of Italy to Compulsory Administrative Liquidation (LCA) and in that context the Italian DGS intervened to support the transfer of some assets and liabilities to another bank belonging to the same group (Banca Sviluppo).

“In 2015, the Mutual Banks’ DGS, facing the crisis of one of its members—namely, Banca di Romagna Cooperativa—put in place an intervention that the Commission considered to be compliant with the State aid framework. Particularly, Banca di Romagna Cooperativa was placed under compulsory administrative liquidation, and the DGS supported the transfer of its assets and liabilities to Banca Sviluppo, after both shareholders and subordinated creditors were made to bear the previous losses.²⁵

However, after the decision to oblige Italy to recover the aid granted in the Banca Tercas case, a solution compliant with the new view of the Commission had to be found in order to properly handle that crisis. The Italian DGS, then, decided to set up a voluntary scheme to be funded on a voluntary

²⁵ European Commission, State aid: Commission approves liquidation aid for Italian bank Banca Romagna Cooperativa. European Commission - Statement 15/5409. Brussels, 18 July 2015, *passim*.

basis by the Italian banks.²⁶ (...) Since its creation, the voluntary scheme has intervened also in favour of Cassa di Risparmio di Cesena, Cassa di Risparmio di Rimini, and Cassa di Risparmio di San Miniato (cumulatively providing €784 million) and of Cassa di Risparmio di Genova (providing €318 million).²⁷ (Bodellini, 2020: 246)

This case is interesting because the Italian DGS implemented an intervention under article 11.6 of the DGSD which was authorised by the Commission on the premise of applying burden-sharing measures to shareholders and subordinated creditors (it was the time of the Commission decision on the Tercas case). Banca Sviluppo is a joint-stock company, but interestingly those assets and liabilities have recently been transferred from that bank to three other financial cooperatives.

This case supports the argument that the financial cooperative structure could also be kept in an indirect way through an intermediate involvement of a joint-stock company in the rescue process.

Jamaica's case (2013)

In 2013, the Jamaica (JCCUL) resolved a non-viable Parish CU. Parish CUs represent members/savers who share a specific bond by residing and/or living in a specific geographic location.

Possible resolution options and justifications/drivers

Declining profitability coupled with poor governance practices including questionable decisions and member complaints were among the main reasons that triggered the resolution action. The CU was initially placed under Temporary Management/Supervision by JCCUL and provided with management personnel and technical assistance aimed at restoring it to viability. However, after periodic assessments it was determined that a merger with another CU that had a similar interest and was financially viable was the best option.

Limited resolution options were available including compulsory dissolution, downsizing, supervision and merger. Temporary Management/Supervision followed by merger was considered to be in the best interest of the members of this Parish CU as well as the credit union movement in general. The merger would provide continuity of service to its members without them losing their existing benefits associated with a mutual/CU. It would also allow members to become part of a stronger CU. These options were assessed to be less arduous, less costly and would cause the least dislocation/disruption in service to members.

Implementation of the resolution process

Technical assistance and supervision²⁸ followed by merger are the main resolution tools used. For supervision the CU is normally written to and advised of the pending supervision including the reasons. However, if the situation is considered serious enough to warrant instant supervision, no prior warning is given. The CU Board may remain in place while the Supervision Team works with the Management Team to implement the required changes within an agreed timeline. However, where warranted, the Board and possibly some management personnel can be set aside, with the Supervision Team assuming the day-to-day responsibility for managing the CU. An Oversight Committee is also established to monitor the management and operations of the CU and make decisions as guided/referred by the General Manager. The JCCUL Board would be responsible for the review and approval of policy changes.

Where it is determined that a merger is the viable option, JCCUL holds an SGM with the members of the failing CU to update them on the financial status of the CU and present the options/merger recommendation. The members are required to give their approval (vote) to allow JCCUL (as the

²⁶ The Voluntary Scheme was established with a separate management, but relies on the DGS's administrative bodies. The Scheme is financed by a group of banks representing 84.4% of the DGS's member banks and 96.1% of the DGS's covered deposits (31 December 2017).

²⁷ Information on the Voluntary Intervention Scheme is available at https://www.fitd.it/Schema_volontario/Lo_Schema_volontario_di_intervento. Last access 19 August 2020.

²⁸ The term "supervision" in this context refers to JCCUL assuming the day-to-day responsibility for managing the CU.

temporary manager/supervisor) to administer the process to select a merger partner. Interested CUs are invited by JCCUL to submit a merger proposal via a “Request for Proposal (RFP)” document. An assessment of the proposal against the predetermined conditions (listed in appendix 1 below) is conducted by a JCCUL In-house Selection Committee to shortlist CUs (usually three). The shortlisted CUs are required to make a presentation to the Stabilisation Committee and possibly some member representatives from the merging/failing CU. Following selection by the Stabilisation Committee, a recommendation of the selected CU is made to the JCCUL Board. Once ratified by the JCCUL Board, the shortlisted CUs are advised of the outcome.

Town Hall meetings are held to update members on the outcome of the merger selection process, present the potential merger partner and sensitise members about the merger process going forward.

A merger resolution is required to be presented to both the members of the failing CU and the members of the selected CU merger partner at an AGM or SGM for their approval before the merger can be effected. Final approval of the merger resolution by the Registrar of Co-operatives is also required following both CU meetings and will include a date by which the merger must be effected.

At least two committees, a Merger Oversight Committee and a Merger Working Committee, are established to implement the merger plan. Where necessary, a financial injection is made to the failing/merging CU from the Stabilisation Fund to cover any shortfall in the failed CU’s assets versus liabilities. This is to ensure that at the merger date, each member is transferred (merged) with the full value of their savings/deposits held in the failed CU.

Challenges

Challenges and impediments encountered in resolving the Parish CU included: lack of timely, complete and relevant information; determining the accuracy of the financial statements; getting Directors and other volunteers, staff and members and the credit union’s representatives to understand, accept and agree on the financial status of the credit union and the need for resolution; unanticipated costs to effect the resolution; completion of the required actions within the given timelines to stem further financial loss.

Conclusion of the case

The resolution process from Temporary Manager/Supervision to effecting the merger was approximately three years. The merger process from making the initial decision to effecting the merger was approximately eight months. The cost of temporary management/supervision and ultimate resolution was approximately USD 3 million.

Evaluation, Observations and/or Lessons learned (if any)

Timely intervention/resolution could reduce: the financial fallout, cost of and time taken to effect a resolution as well as the level of loss of members’ confidence. Effective planning and structured implementation are crucial for the success of a resolution. Key stakeholder participation, along with clear and consistent communication, are critical to both the planning and execution of the plans.

Québec-Canada’s case (2012)

In Québec (Canada), since 1997, when the last AMF intervention was completed, all interventions have taken place before non-systemic “caisses” reached the resolution stage, thanks to the early intervention powers of the Fédération des caisses Desjardins du Québec (i.e. UO) and the Fonds de sécurité Desjardins (i.e. IPS). Therefore, the AMF decided to present a contemporary case of a merger of a weak credit union with a stronger credit union, both of which were part of the same network. This merger was carried out by the UO and the IPS, with the authorisation of the AMF.

Established in the early 1950’s, the ABC Credit Union of Québec²⁹ had a specific nationality affiliation as common bond. It was one of the smallest credit unions in the credit unions network of the Québec’s

²⁹ The names of the credit unions have been voluntarily anonymised.

D-SIFI, a financial cooperative group. For years, this credit union had been the subject of various alerts from the Monitoring Office responsible for inspecting the network, notably: repeated shortcomings in its management practices, an imposed capital strengthening plan but, year after year, a lack of permanent measures to strengthen its capital.

In July 2011, the credit union prepared and adopted a Capital Reinforcement Plan, which concluded that the credit union had no choice but to merge with another credit union. However, the credit union failed to meet this commitment. A few months later, given the seriousness of the situation, the AMF met with ABC Credit Union officers and stakeholders from the Federation. The AMF urged the officers to submit a recovery plan, plus an implementation schedule.

Possible resolution options and justifications/drivers

The best option to deal with the ABC Credit Union's issues and to protect its members was to proceed to a merger with another credit union which was also part of the same non-systemic network of credit unions within the Québec's D-SIFI. Otherwise, the credit union would have failed and the AMF would have paid out deposits.

The ABC Credit Union's Board of Directors wanted to maintain the community services. For Québec's D-SIFI and the AMF, a possible liquidation of the credit union could have weakened the feeling of belonging, which was not desirable. A merger would support the sustainability of the ABC Credit Union activities to the community members. This option also required the participation of members in the decision-making process.

A merger represented an adequate intervention option for maintaining the access of members to services, for keeping, as much as possible, a strong feeling of belonging among the national community, and for limiting the impact on the Deposit Insurance Fund.

Implementation of the resolution process

The resolution process took place between December 2012 and March 2014. The main implementation steps were the following:

- ABC's Credit Union mandated the Federation to look for some potential credit unions for a merger. The XYZ Credit Union was willing to merge.
- The merger was ratified at the Extraordinary General Meeting, but the effective date of the merger was set for a few months later. During those months, the situation of the ABC Credit Union deteriorated.
- The AMF received an official application for a merger authorisation, but also a complaint requesting a stay of merger. After dealing with the complaint, the AMF analysed the application, formulated its merger recommendation, and issued a deposit insurance authorisation.

Challenges

A few months before the merger, the AMF's Complaint Examination Service received a complaint which alleged errors in the merger proceedings during the Extraordinary General Meeting approving the merger by absorption of the ABC Credit Union by the XYZ Credit Union. The complaint focused more on desired post-merger operating procedures, such as the preservation of the credit union's name and the offer of services in the same language as before (which is different from Canada's two official languages: French and English). The complainant mandated a law firm, which sent a letter of formal notice to the ABC Credit Union and the Federation, requesting the suspension of the procedure given alleged irregularities. In the following months, all the AMF's divisions involved in this merger case analysed the documentation and concluded that there were no irregularities that could undermine the merger. Therefore, the authorisation process concerning the merger continued as planned.

Conclusion of the case

The duration of the merger was longer than usual due to the complaint, so the effective date of the merger was delayed. As this merger was done within the non-systemic network of credit unions of Québec's D-SIFI, no costs were incurred for the Deposit Insurance Fund maintained by the AMF.

Evaluation, observations and/or lessons learned

This case demonstrated that the AMF took advantage of its integrated model which allows synergies to be developed between its different functions, by promoting collaboration and knowledge sharing. It also showed the importance of maintaining an effective collaboration with the Federation and the different stakeholders.

Interventions for a failing financial cooperative may raise particular issues, notably:

- Cultural: common bond, values, etc.;
- Political: rural footprint, democratic decision-making process, etc.;
- Operational: size, systems, resources, etc.

It is therefore in the interests of the DI to detect early and manage those particular issues. One way is to help foster a structure within/among FCs that will internalise those issues and minimise the risk and the cost of intervention by the DI.

United Kingdom's case (2009)

The DBS was established in 1869 in the town of Dunfermline from which it took its name. DBS was a mutual organisation. Prior to 2009, it was the largest building society in Scotland and the 14th largest in the UK based on total assets of GBP 3.3 billion and 231,136 members at 31 December 2007. In March 2009, it served more than 350,000 customers and employed around 550 staff in 34 branches across Scotland. It was now the 12th largest building society in Britain. Historically, the building society sector focused on deposits and mortgage loans for residential property. However, DBS had diversified into commercial lending and loans for social housing.

DBS collapsed over the weekend of the 28–29 of March 2009 because of problems with the loans it had made on commercial and residential property. DBS had hoped for a government bailout of between GBP 60 million and GBP 100 million in order to remain in business, but the regulators decided it was no longer viable, with a GBP 26 million loss expected to be announced the week after the collapse was announced. In fact, in March 2009, it was announced that DBS would make an expected loss of GBP 24 million in 2008.

Possible resolution options and justifications/drivers

Following the financial crisis, the UK had introduced an SRR via the Banking Act 2009, and Dunfermline Building Society became the first firm resolved under this legislation.

At the time, options available under the SRR were:

- transfer all or part of a bank to a private sector purchaser;
- transfer all or part of a bank to a bridge bank (a subsidiary of the Bank of England) pending a future sale;
- transfer a bank into temporary public-sector ownership.

The SRR also gave the Tripartite Authorities (i.e. the Bank of England, the Financial Services Authority and HM Treasury) the powers to:

- apply to put a bank into the Bank Insolvency Procedure which is designed to allow for rapid payments to FSCS insured depositors, and
- apply for the use of the Bank Administration Procedure to deal with a part of a bank that is not transferred and is instead put into administration.

The reason given at the time for the intervention by the Tripartite Authorities was that “if the transfer powers had not been exercised, DBS would be unable to satisfy depositors’ claims against it.” More specifically, they explained that DBS was failing, or was likely to fail, to satisfy the threshold conditions for operating as a deposit taker under the Financial Services and Markets Act 2000, and that it was reasonably unlikely that action would be taken by or in respect of DBS that would enable it to satisfy the threshold conditions. In essence, whilst DBS had no immediate cash flow problems, in the judgement of the regulators, its problems related to “future possible solvency under stressed conditions”.

Implementation of the resolution process

The competitive sale process for DBS’s retail and wholesale deposits, branches, head office and originated residential mortgages was conducted by the Bank of England over the weekend of 28–29 March under the Special Resolution Regime provisions of the Banking Act 2009. The Tripartite Authorities received four bids.

The retail and wholesale deposits, branches, head office and residential mortgages were transferred to Nationwide Building Society (the UK’s largest building society) after negotiations over the weekend of 28–29 March. This part of the business was therefore transferred to another cooperative body and depositors were thus retained within a member-owned organisation. Moreover, GBP 500 million of social housing loans were transferred temporarily into a bridge bank owned by the Bank of England.

DBS’s remaining business, mainly lower quality loans (commercial loans, acquired residential mortgages, subordinated debt and most treasury assets) were put into the Building Society Special Administration Process where they were managed by KPMG as the administrator. On 30 March the following parts of DBS were transferred to Nationwide:

- GBP 2,353 million of retail deposits, representing the accounts of approximately 300,000 DBS members;
- DBS’s 34 branches and retail sites, and all related employees, plus DBS’s head office at Dunfermline;
- DBS’s GBP 1,022 million prime mortgage lending book.

As part of the deal, the Government transferred GBP 1.6 billion of public funds to Nationwide Building Society, which took GBP 2.35 billion of DBS’s deposits in return for absorbing GBP 1 billion of its prime residential mortgages. The transfer was made because the assets Nationwide took on were worth GBP 1.6 billion less than the liabilities. However, the GBP 1.6 billion cost was split between the industry-funded FSCS and the taxpayer.

On 17 June 2009, the Bank of England announced that it had selected Nationwide Building Society as the preferred bidder for the social housing loans and related deposits from housing associations held by the Bank of England’s wholly-owned subsidiary, DBS Bridge Bank Limited.

Challenges

In regard to the competitive sale process for DBS’s retail and wholesale deposits, branches, head office and originated residential mortgages, it came to light that an error had been made in the transfer order which resulted in some of the commercial property portfolio being transferred to Nationwide Building Society. The error was discovered by KPMG and corrected by a statutory instrument. Nationwide admitted that due diligence had not been as comprehensive as might have been the case if the transfer had not taken place over a weekend. However, Nationwide had completed a limited amount of due diligence prior to the weekend in March, and then had a four-week period in which to complete in-depth due diligence. Nationwide then confirmed to HM Treasury that the findings were “satisfactory within the parameters [that Nationwide] had expected.” Nationwide stressed that it was the first time the legislation had been used, so as events unfolded, there was some issue in terms of the transfer order but that had been corrected.

In regard to the contribution to the resolution of DBS, the FSCS as a deposit insurer with a pay-box plus model was asked to contribute towards the costs of resolution. It was agreed by the UK Authorities and the FSCS that costs would be contributed on a net basis at the end of the resolution. The SRR builds in a protection for the deposit insurer requiring an independent valuation. The valuation process allows for challenges.

The valuation was conducted by an independent valuer. The valuer issued a report and determination dated 31 July 2012. Under regulation 13(7) of the Financial Services and Markets Act 2000 (Contribution to Costs of Special Resolution Regime) Regulations 2010, the FSCS now publishes the determination notice. Under regulation 14, the FSCS may require the valuer to reconsider the determinations, and to do so must make a request within three months. The FSCS made such a request of the valuer. The independent valuer delivered his report on the 'Request for reconsideration of determination' on 30 April 2013. On 5 June 2013, the FSCS announced that, following a review of the reconsideration and report, the FSCS had decided not to refer it to the Upper Tribunal.

Conclusion of the case

On 30 March 2009, the Bank of England exercised 'stabilisation powers' under the Banking Act 2009 in respect of DBS through the Dunfermline Building Society Property Transfer Instrument 2009, by which certain property, rights and liabilities of DBS were transferred to Nationwide Building Society.

HM Treasury served notice on the FSCS, revised during 2011/12, placing an obligation on the FSCS to contribute to the costs of the resolution, and interest, net of recoveries, which were funded by levies on the Deposits class. The FSCS had previously made payments on account to HM Treasury totalling GBP 500 million, which were taken into account in determining the final amount due.

On 26 March 2018, HM Treasury wrote to the FSCS with a determination of the final balance due, of GBP 21,190,000. The FSCS paid this amount on 29 March 2018, thereby discharging in full its liabilities to HM Treasury for the DBS resolution.

Evaluation, observations and/or lessons learned

Following on from the immediate impact of the global financial crisis and the introduction of the UK's SRR, DBS remains the only deposit-taking institution in the UK to have been resolved under the SRR. Due to the economic environment at the time, the rescue of DBS was always going to be difficult, but the transfer of depositors to another cooperative was successful.

Lessons have been learned with regard to the independent valuation, the process itself and what can be expected. Importantly, alongside other jurisdictions, the UK has adopted a range of regulatory requirements, including larger capital buffers and liquidity requirements, which should ensure deposit-taking firms have more capacity to endure shocks. The introduction of recovery and resolution planning has also focused both firms and regulatory authorities on preparing for recovery and, in the worst-case scenario, resolution. Deposit-taking firms are also made aware of the likely resolution tool which would be used were they to fail, enabling the RA to have effective plans in place in advance of any failure.